WAR PENSIONS

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BY

HIS HONOUR JUDGE

Sir EDWARD ABBOTT PARRY

AND

LIEUT.-GENERAL

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TO

OUR FRIEND AND COLLEAGUE

ALBERT BELLAMY

PREFACE

IN the summer of 1917 we were invited to become members of a Pensions Appeal Tribunal, an independent body formed to hear and determine certain specified appeals from decisions made by the Officers of the Ministry of Pensions.

When we took up these duties we had no special knowledge or experience of our system of War Pensions, nor had we studied the principles by which it was governed or the machinery by which it was carried out.

We discovered that there was not in existence any one book dealing with the subject; and that, in order to understand the system of War Pensions which obtains to-day, it was necessary to make a very considerable historical research. We found that the modern Statutes did not define the powers and duties of the Ministry or the rights of applicants. Army Pensions were dealt with under a Royal Warrant, Navy Pensions were dependent upon a Statute, whilst the affairs of widows and orphans were in the hands of a Statutory Committee.

To appreciate the position of these various bodies necessitated research into the history of the Royal Commissioners at Chelsea, the Pension Authorities at Greenwich Hospital, and the study of the evolution of

the Royal Patriotic Fund from its beginning as a Commission to its final merger in the Ministry of Pensions.

To understand the obscure and confused history of War Pensions in this country, we found that we had to consult many old and forgotten Statutes, reports of Commissions, and lengthy volumes of evidence, some of which are now only accessible in libraries. From these we extracted a history of War Pensions which we found of considerable value to ourselves in considering questions of principle in Pension administration.

At the end of our year's work we felt that in the trial of Appeals that had come before us, we had not only gained considerable insight into the working of Pensions administration, but that the cases actually decided, and the reasons for the decisions, were worthy of publication, not only in the interests of future Applicants, but as a guide to members of Local War Pension Committees and other citizens interested in the right administration of War Pensions.

When we consider that over forty millions a year are being spent by the Ministry of Pensions, and that the right distribution of this money affects the lives of thousands of the men who have fought for us, and of the widows and orphans of those who have died in the service of their country, it seems reasonable to suppose that other citizens besides ourselves will desire to understand the constitution and powers of the Ministry appointed to carry out these duties on behalf of the nation.

To have set out at length all the official documents relating to War Pensions would be to have

compiled and edited a cumbersome law-book. We preferred to tell the story of War Pensions in a short and readable form; but at the same time we have noted all necessary references, so that any reader who desires to consult original documents may readily find them.

To many it may seem a somewhat simple matter to decide whether or not in fact an Applicant is entitled to a Pension: in the majority of cases no doubt this is so; but where a man alleges that his condition of unfitness has been aggravated by Military Service, questions of great delicacy and difficulty are bound to arise. In every Appeal that was heard the two Medical Members of the Tribunal made a careful examination of the Applicant, and thus in arriving at their decisions the Tribunal had the advantage of medical and surgical opinions of the highest authority.

In America, Appeal decisions on Pension matters are reported formally in the same manner as Law cases are in England. The decisions that we have printed in Chapter VI. are a selection from the actual decisions given in open Court; and although some of them have been reported in the Press, and a few were printed for official use, no authoritative collection of them has been published. We think that there can be no doubt that the considered decisions of the Appeal Tribunal arrived at under the conditions we have described must be of great practical value to every one concerned in the right decision of Pension Claims.

It would be foolish to assume that the country has yet achieved a perfect system of Pension administration, and in printing a short account of the American

system, we felt that the experiences of a nation of our own race, and the way in which they have solved similar problems, are matters of peculiar interest to us at the present time. In Parliament and in the Press there is frequent discussion of Pension matters; and this is likely to continne in the future. Such discussion without knowledge of the facts is likely to be barren of good results. We ourselves found how necessary it was to study the origin and evolution of War Pensions before we could deal satisfactorily with the matters entrusted to us, and we feel that the publication of the results of our researches may be of use to others interested in Pension affairs.

"Nature is an endless combination and repetition of a very few laws," and the mistaken experiments of a past generation are instinctively repeated by the present because the records of former failures are mislaid or forgotten. In building up a new system the success of the future depends in no small measure on a study of the past.

The future of War Pensions will lie in the hands of new legislators who will have to face many grave problems, but none that will require more sympathy, wisdom, or honesty than this one. Even these qualities will not overcome the difficulties unless the lessons of the past are studied and profitably used.

EDWARD A. PARRY.
A. E. CODRINGTON.

SEVENOAKS, 1918

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CHAPTER I

THE EARLY HISTORY OF WAR PENSIONS

"When troubles rise and War is nigh,
God and the Soldier is the cry;
When War is o'er and trouble righted,
God is forgotten and the Soldier slighted."

Traditional.

ALL civilized nations have done something to provide for the disabled soldiers who fought their battles. The Athenians maintained their wounded out of public funds and cared for the orphans of those who fell. The Romans settled their legionaries in colonies and gave to discharged soldiers farms held on a military tenure. Even under our feudal system, although the State undertook no duties in relation to discharged soldiers, each baron looked after his own retainers, and their old soldiers when discharged or disabled became foresters, dog-feeders, hawk-trainers or seneschals at their masters' castles or cultivated the land as serfs.

From the downfall of the feudal system to the reign of Elizabeth there seems to have been no systematic plan for the relief of wounded and discharged soldiers. In the time of Edward IV. occasional instances of Royal Bounty are recorded. John Sclatter had an annuity of four marks for the loss of his hand at the battle of Wakefield, and Rauf Vestynden a pension of ten pounds by letters patent under the Great Seal "for the good and agreeable service which he did unto us in berying and holding our standard of the black bull at the battle of Sherborne."[1]

These early instances of war pensions are interesting to us to-day inasmuch as they prove that the original form of war pension existing in England seems to have been some sort of bounty granted by the Sovereign, and the instrument by which the Sovereign signified his royal pleasure that a pension should be granted was in the nature of a Royal Warrant. We shall see that exactly the same procedure obtains to-day, and that an Army war pension is still a matter of Royal Bounty and not of legal right.

In the early part of the reign of Elizabeth, the system of Royal Bounty still prevailed, but the extent of the wars and the constant calls on the privy purse led, no doubt, to the consideration of some better plan, and in this reign we find the first institution of the War Pension as a statutory right. How this right became obsolete and why soldiers are once more recipients of Royal Bounty—if, as we are told by authority, this is their true legal position to-day—

[1] See Gleig, *Chelsea Hospital*, p. 15.

involves an investigation into the history of War Pensions.

In the ballad of "Brave Lord Willoughbey" there is an allusion to the institution of the Elizabethan pension system, although the ballad-monger gives the personal credit of the pension to the Queen.

> "To the soldiers that were maimed
> And wounded in the fray,
> The queen allowed a pension
> Of fifteen pence a day;
> And from all costs and charges
> She quit and set them free:
> And this she did all for the sake
> Of brave lord Willoughbèy."[1]

Peregrine Bertie Lord Willoughbey of Eresby distinguished himself at the siege of Zutphen in 1586, and was made General of the English forces in the United Provinces on the recall of the Earl of Leinster. He was a very popular soldier and it is possible that he had some hand in persuading Elizabeth to grant bounty pensions prior to the passing of the first Pension Act in 1593. Before this date the only way to obtain a pension was by petitioning the Crown. Thus we find in 1582: "Petition of Jane Bolding to Queen Elizabeth to grant a pension to her husband Edward Bolding who was maimed and disabled while serving in Ireland under Mr. Walter Rawley."[2] Even after the passing of the statute grants continued to be made by the Crown, as on February 1595: "Grant to

[1] *Percy Reliques*, ii. 181.

[2] Calendar of Domestic State Papers (1582), p. 87, par. 70.

Edward Lloyd of a pension of 12d. a day for life in consideration of hurts and maims received in the wars,"[1] and on 31st May 1597, "grant to William Morre of a pension of 6d. a day for life in consideration of his loss of sight in Her Majesty's service."[2]

There are many other records of money pensions and places in almshouses found for old soldiers, but ultimately these seem to cease as the statutory system was put in practice.

There were three statutes concerning pensions passed in the reign of Elizabeth, namely, 35 Eliz. c. 4, 39 Eliz. c. 21, and 43 Eliz. c. 3. The first laid down general principles and outlined a procedure, the second was an amending Act, and the third repealed the first two and reorganized pension affairs and became the chief authority on the subject for many years.

35 Eliz. c. 4 (1593) is entitled "An Act for Relief of Soldiers." The preamble should interest us to-day, and runs as follows: "For as much as it is agreeable with Christian Charity, Policy, and the honour of our Nation, that such as have since the twenty-fifth day of March Anno 1588, adventured their lives and lost their limbs or disabled their bodies or shall hereafter adventure their lives lose their limbs or disable their bodies in the defence and service of Her Majesty and the State, should at their return be relieved and rewarded, to the end that they may reap the fruit of

[1] Calendar of Domestic State Papers (1595–1597), p. 9.

[2] *Ibid.*, p. 427.

their good deserving, and others may be encouraged to perform the like endeavours."[1]

The duty of relieving soldiers is here seen to be a national one based upon Christian principles, Policy and the Honour of the Nation, and by rewarding the well-deserving it is understood that not only will justice be done but that the effect on others will be to make them ready to render service. It will be noticed that this scheme is retrospective and is to date back to 25th March 1588, which was then New Year's Day.

In 1601, when the new Act (43 Eliz. c. 3) was passed, it is described as "An Act for the necessary relief of Soldiers and Mariners" and the second section states that "it is now found more needful than it was . . . to provide relief and maintenance to Soldiers and Mariners . . . in respect the number of the said soldiers is so much the greater by how much her Majesty's just and honourable defensive wars are increased."[2]

Mariners as well as soldiers were made pensionable in the original Act but it remained for Parliament in Cromwell's day to extend the right of pension to the widows and children of sailors and soldiers who had lost their lives in battle. The important point in all these statutes for modern readers is that in the days of Elizabeth and Cromwell the right of a maimed or sick discharged sailor or soldier was a statutory right and not, as it is with us to-day, a claim on personal charity or public funds in the shape of Royal

[1] Statutes of the Realm, iv. Part ii. 847.

[2] Statutes at Large, ii. 706.

Bounty distributed at the discretion of Government officials.

The procedure of collecting the pension fund and paying it to the soldiers and mariners was comparatively simple. As we should say nowadays, it was thrown on the rates. Every parish was charged with a weekly sum of not more than 10d. a week and not less than 2d., and the average of all the parishes in one district, one with another, was not to exceed 6d. a week. This fund was under the direction of Quarter Sessions. The parishioners agreed among themselves as to the amount of taxation they should bear or it was settled by the Church-wardens and Constables, or in default by the Justice of the Peace for the parish. On refusal of payment there was a right to distrain to recover the amount. The money collected was paid to the High Constable and by him to two Justices of the Peace who were elected Treasurers. These held office for a year and passed their accounts at Easter Quarter Sessions before their brother magistrates.

Every soldier or mariner who had been in Her Majesty's pay who was "hurt or maimed or grievously sick" had to make his claim to the Treasurer of the county of his birth. Then the Treasurers, "according to the nature of his hurt and the commendation of his service," made him a temporary grant for present necessities until the next Quarter Sessions. Here the Justices made an "instrument of grant" which declared once for all his pension right, and this was to endure as long as the Act remained in force and the pensioner

continued to live, unless the Justices in Quarter Sessions revoked or altered it.

The limits of amount are these: £10 per annum to any who "had not borne office," £15 to "one that hath borne office under the degree of Lieutenant," and £20 to any who attained that rank.

Another important provision of the statute was that any one remiss or negligent in the collection of the sums of money or the making of payments was liable to be fined, and the fines went to swell the pension fund. In the larger towns Corporation officers executed the Act, and there were special provisions relating to London.

That the Elizabethan system, like our present-day system, sometimes broke down in administration seems clear from the following extracts from the papers of Francis Gavell, treasurer of eleven hundreds of West Surrey. An applicant writes to him: "I request beforehand 20s. paid of the pension of £4 a year due to Rd. Morris, a maimed soldier, who is in prison in great want as the said sum would set him at liberty. Camberwell, 18 Aug. 1598." Again, Sir William Howard writes: "I request your assistance for John Price a soldier maimed in the service who had a pension of £3 allowed but has not yet received payment from preceding treasurers and wants his arrears and payments as they fall due."[1]

The Elizabethan statutes governed our national war pension system until the Civil War, when all such things fell into disuse. In the early days of Cromwell's

[1] Calendar of Domestic State Papers, 1598–1601, p. 230.

army the relief of their wounded soldiers, and the widows and orphans of those who died, was left to private charity, but when this was found to be insufficient Parliament again stepped in to provide a regular pension system.

The first Cromwellian ordinance was passed on 6th March 1643. It is entitled "Assessment for relief of maimed soldiers and widows and children of persons slain in the Parliament service." The preamble runs: "Whereas divers well affected persons have gone forth in the Army raised by the Parliament for the defence of the Parliament, Religion, Laws and Liberties of the Subjects of England and in fight have received divers wounds and maims in their bodies, whereby they are disabled to relieve themselves by their usual labour and divers others have lost their lives in the same Service, whereby they have left their Wives and Children destitute of Relief to support and sustain them; the Lords and Commons assembled in Parliament taking the same into their pious and charitable consideration and having relieved divers of them here at London with some small relief for their present subsistence; but finding that that course cannot be held for any continuance of time without many inconveniences have thought and do hereby ordain, that in every Parish within the Kingdom," etc.[1] The regulations then followed the Elizabethan system, the only alteration of importance being the recognition of the rights of widows and orphans. Several further ordinances followed, and in one of them (28th May 1647) occurs

[1] Scobell, *Acts and Ordinances*, 1658, p. 37.

the phrase "a yearly *pension* shall be by the said Justices or major part of them granted," and this is probably the first use of the word "pension" in connection with this form of compensation or relief.[1]

In spite of the many ordinances and regulations passed by Parliament to maintain hospitals and pay pensions the administration of them left much to be desired. In all pension matters sympathetic and competent administration is more important than legislation. Parliamentary pensioners were unfortunate in their experience of pension administrators. Professor Firth in his admirable account of Cromwell's army tells us that "Even before the Protector's death the payments due to them fell into arrear, and in the year of confusion which followed it the Government for a time suspended payment altogether. On 7th April 1659 Lord Fairfax presented a petition to Parliament from 2500 maimed soldiers on behalf of themselves, and for 4000 widows and orphans, praying for the regular payment of their pensions. Parliament made some temporary grants, but they were insufficient to meet the emergency. It ordered the pension list to be further reduced, invalids who were sufficiently recovered to be sent to garrisons, orphans to be bound apprentices to trades, and everything to be done to reduce the charge on the State. A report presented on 1st March 1660 revealed the fact that the revenues assigned to the hospitals were forty-nine weeks in arrear; and thus the pensioners and patients were in the greatest distress, 'insomuch that some have been

[1] Scobell, *Acts and Ordinances*, 1658, p. 123.

starved; others have attempted to destroy themselves; and many are daily likely to perish, through imprisonment, hunger, cold and nakedness. And the sick and maimed soldiers now under care in the said hospital are also ready to perish for want, being not able to stir out of their beds and having had no pay these four weeks.'"[1]

The Cromwellian pension system was not peculiar in its misfortunes. It was well meaning but incompetent. History, we shall find, discloses that there is in all communities engaged in war a tendency to utter generous statements of promised relief to soldiers fighting for their country. This is often followed, as in the Parliamentary system which Professor Firth has described, by an Administration hampered by want of funds, which affords the economist a chance of making his deliberate effort "to reduce the charge on the State." These efforts at economy, though perhaps sound in themselves, are too eagerly exploited by a generation undisturbed by war's alarms, and the good name of the State is injured if in times of peace it dishonours the bill that it eagerly accepted during the terrors of war.

With the Restoration the hospitals and pensions of the Parliamentarian came to an end and the Elizabethan statute (43 Eliz. c. 3) was once again the law of the land, but how far the system was ever properly worked by the Quarter Sessions it is difficult to say. Blackstone in 1769 treats it as an existing statute and

[1] Firth, *Cromwell's Army*, 269; quoting *Commons Journal*, vii. and Burton's *Diary*, iv. *passim*.

says that "a weekly allowance is to be raised in every county for the relief of soldiers that are sick hurt and maimed not forgetting the Royal Hospital at Chelsea for such as are worn out in their duty." Burn's *Justice of the Peace* (5th edition, 1758), which deals with the everyday practice of the law, although it sets out the provisions of 43 Eliz. c. 3 and refers to the collection of the fund for discharged soldiers, adds the following note: "But as this is left to the discretion of the Justices this is not usually done; but they are left to be provided for by the particular parishes whereunto they do belong or the provision of the Royal Hospitals of Greenwich or Chelsea respectively."

This passage shows, we think, that by the middle of the eighteenth century the statutory right of a sailor or soldier to a war pension was a dead letter, the Elizabethan statute was practically obsolete, and the men were again dependent on charity or parish relief. It is interesting to remember that the statute itself was not repealed until 1863, when the Statute Law Revision Act declared it to be one of those enactments "which have ceased to be in force or have become unnecessary."

From the reign of Charles II. the history of war pensions for discharged soldiers centres round Chelsea Hospital. Popular tradition assigns to Nell Gwyn not only the idea of founding the Hospital but a gift of the land on which it was built.[1] Probably the renown that had attached to Louis XIV., who had built the Hôtel Royal des Invalides, had something to do with

[1] Gleig, *Chelsea Hospital*, pp. 23, 24.

Charles' interest in the subject. Sir Stephen Fox, Paymaster of the Forces, took a keen interest in the scheme, and it doubtless owed its success in a great measure to his energy and generosity. On 22nd December 1681 a warrant was issued announcing the royal intention of founding the Hospital. Sir Stephen Fox consulted John Evelyn on the matter, and a discussion of the proposed details of management is to be found in his Diary under date 27th January 1682. The original draft of its constitution seems to have been made by Evelyn and Fox in the latter's study, where "we arranged the governor, chaplain, steward, housekeeper, chirurgeon, cook, butler, gardener, porter and other officers, with their several salaries and entertainments. I would needs have a library, and mentioned several books, since some soldiers might possibly be studious, when they were at leisure to recollect. Thus we made the first calculations and set down our thoughts to be considered and digested better to show his Majesty and the Archbishop. He also engaged me to consider of what laws and orders were fit for the government, which was to be in every respect as strict as in any religious convent."[1]

This passage, we think, clearly shows the difference in outlook between the Elizabethan statutory money pension paid to a man with liberty to spend it how he pleased, and the more modern idea of a pensioner subsisting on bounty and housed among a number of officials who were to govern his movements by the strictest discipline.

[1] Evelyn's *Diary*, ed. Dobson, iii. 78.

The first stone of Chelsea Hospital was laid on 12th March 1682, but the building was not completed until 1690. The cost of its erection and maintenance was provided by a poundage deducted from the pay of each soldier, and this continued until 1847. The management was at first entrusted to three civilians—Lord Ranelagh, Paymaster-General; Sir Stephen Fox, Lord of the Treasury; and Sir Christopher Wren, Surveyor of the Works.

From the reign of William III. the disposition of pensions for soldiers remained under the control of the Commissioners of Chelsea Hospital, who administered the grants from Parliament and other available funds. Regulations were issued from time to time to the Commissioners, but the soldiers' claim to pensions seems to have rested, as it does to-day, on Royal Bounty and annual Votes on Supply administered at the will of Commissioners, who were the direct agents and representatives of the Sovereign.[1]

The history of Naval Pensions follows somewhat similar lines to that of Army Pensions, but it is far less involved and is easier to follow. In the same way as the Hospital at Chelsea superseded the Elizabethan statutory system as the authority to manage the affairs of Army Pensions, so Greenwich Hospital became the controlling authority for sailors.

Greenwich Hospital was founded by William III. as a memorial to Queen Mary. "The affection with which her husband cherished her memory," writes Macaulay, "was soon attested by a monument, the

[1] Clode, *Military Forces*, i. 71. Gleig's *Chelsea Hospital*, p. 28.

most superb that was ever erected to any sovereign. No scheme had been so much her own, none had been so near to her heart, as that of converting the palace at Greenwich into a retreat for seamen. It had occurred to her when she had found it difficult to provide good shelter and good attendance for the thousands of brave men who had come back to England wounded after the battle of La Hogue. While she lived, scarcely any step was taken towards the accomplishment of her favourite design. But it should seem that, as soon as her husband had lost her, he began to reproach himself for having neglected her wishes. No time was lost. A plan was furnished by Wren; and soon an edifice, surpassing that asylum which the magnificent Lewis had provided for his soldiers, rose on the margin of the Thames. Whoever reads the inscription which runs round the frieze of the hall will observe that William claims no part of the merits of the design, and that the praise is ascribed to Mary alone. Had the King's life been prolonged till the works were completed, a statue to her who was the real foundress of the institution would have had a conspicuous place in that court which presents two lofty domes and two graceful colonnades to the multitude who are perpetually passing up and down the imperial river. But that part of the plan was never carried into effect; and few of those who now gaze on the noblest of European hospitals are aware that it is a memorial of the virtues of the good Queen Mary, of the love and sorrow of William, and of the great victory of La Hogue."[1]

[1] Macaulay's *History*, vol. iv. pp. 535, 536.

On 25th October 1694 letters patent were issued to erect and found a hospital "for the relief and support of seamen serving on board the ships or vessels belonging to the Navy Royal of us our heirs and successors; or employed in our or their service at sea, who by reason of age wounds or other disabilities shall be incapable of further service at sea and be unable to maintain themselves; and also for the sustentation of the widows and maintenance and education of the children of seamen happening to be slain or disabled in such sea service."[1]

Again we find Evelyn and Wren connected with the scheme—the former as treasurer, the latter as architect. Funds were raised by subscription and lotteries, and in 1705 a sum of over £80,000 had been raised. In this year the Hospital was opened and 42 disabled seamen were admitted. Evelyn, under date June 1705, writes: "I went to Greenwich Hospital, where they now began to take in wounded and worn-out seamen, who were exceedingly well provided for. The buildings now going on are very magnificent."[2] In 1738 the number of pensioners had increased to 1000. In 1763 the out-pensioners' system was first established to meet the necessities of the large number of seamen for whom room could not be found in the Hospital. Their pensions were £7 a year. The in-pensioners had increased to 1765, and there were now a number of boys in the Hospital School and quarters allotted to officers.

In the beginning of the nineteenth century, when

[1] Walford, *Old and New London*, vol. iv. p. 177.

[2] Evelyn's *Diary*, vol. Dobson, iii. 371.

Lord Hood was Governor, the in-pensioner establishlishment increased to the maximum for which it was possible to find accommodation—2710; and there were, in addition, upwards of 12,000 out-pensioners on the books.[1]

From this date down to 1845 there was always a list of waiting applications, but from then onwards the candidates were fewer than the vacancies, until in 1859 there were only three applicants for 956 vacancies. Parliament thereupon appointed a committee to investigate the whole question, with the result that in 1865 preliminary steps were taken to disestablish the institution. Improved arrangements were made for out-pensioners, and a sum equivalent to an annuity of £36, 10s. was offered to each of the in-pensioners, whereupon 987 out of the 1400 pensioners decided to leave the Hospital. For reasons of economy a second Act passed in 1869 effected a final clearance, and the building was in 1873 opened as a Naval College.

As a matter of practical convenience, although it carries the story of Naval Pensions somewhat beyond the date limits of the present chapter, it seems well to set down here the system adopted when Greenwich Hospital was abolished.

Naval Pensions were placed on a statutory basis. The Naval and Marine Pensions Act, 1865, 28 & 29 Vict. c. 73, is undoubtedly the legal authority for the payment of Naval and Marine Pensions. Section 3 enacts that "all Pay Wages Pensions Bounty Money Grants or other allowances in the nature thereof pay-

[1] Fraser, *Greenwich Royal Hospital*, pp. 64, 79.

able in respect of services in Her Majesty's Naval or Marine Force to a person being or having been an Officer Seaman or Marine or to the widow or any relative of a deceased Officer Seaman or Marine shall be paid in such manner and subject to such restrictions conditions and provisions as are from time to time directed by Order in Council."

As we shall see later, when we come to deal with the powers of the Ministry of Pensions to-day, Naval Pensions are referable to this statute and regulations are drawn up under it by an Order in Council, whilst Army Pensions are handed over to the Minister without any reference to any statute by a Royal Warrant which purports to give the Minister authority and powers of interpretation as to Army Pensions which are nowhere expressly conferred upon him in relation to Naval Pensions. The origin of these differences in procedure will appear in the story of the further evolution of Army Pensions.

It is characteristic of our constitution that Navy and Army Pensions should be granted under distinct systems and by different instruments, and the reasons for this and the way it affects the sailor and soldier of to-day can only be understood by a study of the history of the subject.

CHAPTER II

PENSIONS IN THE NINETEENTH CENTURY

"Examine History, for it is Philosophy teaching by Experience."
—CARLYLE, *Essay on History*.

FROM the time of William III. onward Army pensions were entirely under the control of the Commissioners of Chelsea Hospital, acting as administrators for the Crown. In the beginning of the nineteenth century there seems little doubt that the Elizabethan statutory system of War Pensions was obsolete, and all pension administration centred in Chelsea.

In 1806 there were 21,177 out-pensioners attached to Chelsea Hospital.[1] Some of these men held pensions for long service, others were invalids and disabled men in receipt of pensions partly for service and partly for disability. The War Pensions dealt with by the present Ministry are, as we shall see, purely disability pensions, but the Chelsea Commissioners until very recently dealt with all classes of pensions. To a generation that busied itself about the rights of man and imagined that it lived in an age of reason, it seemed wrong that a soldier's pension should not be a legal

[1] Gleig, *Chelsea Hospital*, p. 39.

right. Doubtless hard cases arose where through the caprice of a commanding officer, who could grant or withhold a certificate of good conduct, a soldier was deprived of his pension without any right of appeal. In any case the popular opinion of the day led to a desire for reform which culminated in the passing in 1806 of 46 Geo. III. c. 69, commonly known as Windham's Act.

William Windham, the friend of Johnson and Burke, took office under Pitt in 1794 and became Secretary at War with a seat in the Cabinet. He was the first War Secretary to hold office in the Cabinet. Later on he accepted office under Lord Grenville, and "on 3rd April 1806 introduced his plan for improving the conditions of the military forces, and making the Army an attractive profession. With this object he passed Bills for reducing the term of service and for increasing the soldiers' pay."[1] The special interest of Windham's Act in regard to pensions is that Windham recognized the importance of the Elizabethan principle of making a war pension a legal right.

46 Geo. III. c. 69, s. 3 enacted: "That every soldier who shall from and after the passing of this Act become entitled to his discharge by reason of the expiration of any period of service . . . or shall have been discharged by reason of being an invalid or disabled or having been wounded shall thereupon become *legally entitled* to receive such pension. . . ."

All pensions were under the management of the Commissioners of Chelsea Hospital, but a certificate of

[1] *Dict. Nat. Biog.*, lxii. 174.

pension granted was a legal instrument of grant and not a mere statement that the applicant was to receive a royal bounty.

Windham's regulations under this Act, dated 7th October 1806, laid down the exact money limits within which Chelsea was to grant pensions, and introduced an entirely new system.

As Mr. Clode remarks, the arrangements made "were greatly to the prejudice of the public or to the advantage of the soldier according to the point of view from which the subject is considered." In the first place they laid down a system of pensions for long service with which we have no concern, but they also laid down definite rules for disability pensions. These were graduated according to the inability of men to earn a livelihood or their ability to earn something towards it or materially to assist themselves. No man was allowed to claim any pension whose disability arose from vice or misconduct.[1]

These regulations undoubtedly led to a large increase in expense, and Finance Committees in 1817 and 1818 pressed for economies. In 1826 Windham's Act was repealed and 7 Geo. IV. c. 16 consolidated and amended the various Acts relating to the Royal Hospitals for soldiers at Chelsea and Kilmainham, and gave Chelsea the sole control and management of all pensions, allowances and relief. The Chelsea Commissioners were entitled to make regulations as to the payment of pensions, but these might be "revoked or altered by

[1] Clode, *Military Forces*, ii. 286; and *Windham's Speeches*, Amyot, ii. 390.

any Warrant Order or instruction under His Majesty's Royal Sign Manual." Although the words "legally entitled" are here no longer used, the regulations are to be made for "securing the due payment of such pensions, allowances and relief either at Chelsea or in any other place where the same shall be payable to the persons entitled thereto." And section 10 of the Act says that a discharged or disabled soldier is "entitled" to a pension under the provisions of the Act or the regulations made under it.

A great deal of this Act of 1826 remains in force, and sections 10 and 11 are perhaps worth quoting at length, for it might possibly be argued that they are a statutory foundation of all Army Pensions granted to-day. The sections are, therefore, set out in the Appendix.[1] Although the Act is never referred to in Pension Warrants in modern times, the point might be taken that just as Naval Pensions are recognized in the Order in Council to be payable under the Naval and Marine Pensions Acts, 1865, so Army Pensions ought technically to be referable to sections 10 and 11 of 7 Geo. IV. c. 16, and not be dealt with as mere matters of Royal Bounty.

These matters are not perhaps without practical interest, for to a disabled man it might be important to determine whether his pension is a matter of legal right or only of bounty, since if the former is the correct view he might then consider how he could enforce his right in a Court of Law if at any future time a pension should be wrongly withheld. One

[1] See p. 172.

cannot hope in a country where hitherto the individual has been used to cherish and maintain his legal rights that we shall continue to spend many millions of public money without some public interest being taken in the legal position of the recipients. Those who have to pay will want to know under what sanctions and authority the money is spent. Those who receive, still more those who think they ought to receive and do not, will want to know how their interests are safeguarded.

It seems generally conceded by the best authorities that there is no legal right to an Army War Pension, and the reason that this is so seems based on the maxim that "The Army look to the King and not to the Parliament," and a pension being in the nature of a reward for Army service is in the same category as Army pay.

Lord Hardinge in 1834 when, as Sir Henry Hardinge, he was sitting in the House of Commons laid down the Army doctrine in very uncompromising terms: "The *King*, and *not* that *House*, was the disposer of grace, favour and reward to the Army; and he should object to the noble lord, or any one else, calling on them to confer rewards which could only be obtained by means of His Majesty's pleasure. The Estimate should have been submitted by command of the King, and not until his pleasure respecting it was first ascertained. The same course ought to be taken before any reductions were proposed, for it was of the utmost importance that the Army should look up to *no authority but that of the King*. It was by His Majesty's direction that

punishments were inflicted and by him alone should rewards be conferred. This was the constitutional doctrine."[1]

The payment of the Army, therefore, is held to be left entirely to the Crown, and this is held to be equally true of pensions. Parliament provides the money which in theory the King distributes. It is under his control and "he may prevent it from being paid to a person whom he deems not entitled to receive it." This was laid down by Lord Kenyon in 1793 when he held that the King may at any time stop the half-pay of an officer in the Army by signifying his pleasure that it shall no longer be paid.[2]

No suit or action, therefore, can be brought either against the Crown or its Ministers for Army pay, and this seems equally true of pensions.[3] It seems, too, that, at all events as regards Army pensions, however clear the claim might be under the Warrant, no mandamus would lie against the Minister of Pensions to compel him to carry out its terms if in his discretion he thought it right not to do so. A mandamus is a "high prerogative writ, issuing from the Crown side of the King's Bench Division of the High Court, whereby the Court, in the King's name, commands the person to whom it is addressed to perform some legal or quasi-public legal duty which he has refused to perform."[4]

[1] Clode, *Military Forces*, i. 97.

[2] *Macdonald* v. *Steele*, Peake's *Nisi Prius Cases*, 3rd edition, p. 233.

[3] *Gidley* v. *Lord Palmerston*, 3 Broderip and Bingham's *Reports*, 275.

[4] Short and Mellor, *Practice on the Crown Side*, 197.

If there is a statutory obligation cast upon servants of the Crown to do some ministerial act and the statute imposing the obligation creates a duty to the claimant a mandamus will issue. If a pension therefore were a statutory obligation and the statute created a duty in the Minister to pay the pension, then, if a pension was improperly withheld, a claimant might, it seems, invoke the aid of the mandamus.

But it has been held that a mandamus will not lie against the Secretary of State for War to compel him to carry out the terms of a Royal Warrant regulating Army pay. This was decided in 1891 in the Court of Appeal in *The Queen* v. *The Secretary of State for War*.[1]

From an Army point of view the case is one of great practical interest, and to the citizen it is important as showing how necessary it is that legal rights should be clearly stated in statutes and carefully preserved when these are amended or consolidated. Had Windham's Act been retained, or when repealed by 7 Geo. IV. c. 16 if that Statute had clearly stated that pensions were to be matters of legal right, then the pensioner of to-day and the future would have had some legal status. Unfortunately 7 Geo. IV. c. 16 merely used the word "entitled" and from the first it has been taken for granted that it did not mean legally entitled.

The argument of Sir Richard Webster in the case cited is simplicity itself. In carrying out the provisions of a Warrant the Secretary of State is the mere Agent of the Crown. He owes a duty to the Crown only and

[1] *Law Rep.*, 1891, 2 Queen's Bench, p. 326.

no duty or obligation to any officer or man. The duty under the Warrant is the Crown's duty, and the Crown would not issue a writ of mandamus against itself. Therefore, it will not issue it against its Secretary who is its agent and delegate.

This argument was accepted by Justices Cave and Charles, who in a written judgment laid down the law in these terms. Having stated that the question for the Court was "whether there is imposed on the Secretary of State by the Royal Warrant any duty of a public nature in which the applicant is interested, or whether the duty imposed is one owing to the Sovereign alone," they continued as follows: "Now there are, no doubt, cases where servants of the Crown have been constituted by statute agents to do particular acts, and in these cases a mandamus would lie against them as individuals designated to do those acts. But it is also beyond question that a mandamus cannot be directed to the Crown or to any servant of the Crown simply acting in his capacity of servant."

"With reference to that jurisdiction," says Cockburn, C.J., in *Reg.* v. *Lords of the Treasury*,[1] "we must start with this unquestionable principle: that when a duty has to be performed (if I may use that expression) by the Crown this Court cannot claim even in appearance to have any power to command the Crown. The thing is out of the question. Over the Sovereign we can have no power. In like manner where the parties are acting as servants of the Crown and are amenable to the Crown, whose servants they are, they are not amen-

[1] *Law Rep.*, 7 Q.B. 387, at p. 394.

able to us in the exercise of our prerogative jurisdiction."

In this statement of the law Lord Esher concurred. "I entirely agree with the Divisional Court that a mandamus will not lie in this case against the Secretary of State for War on the ground that there is no legal duty towards the applicant to do what the applicant asks us to direct him to do, imposed upon him either at common law or by statute."

Unless, therefore, an Army Pensioner could persuade the Courts that he was "entitled to a pension" within 7 Geo. IV. c. 16, it would seem he has no legal rights, though a Navy Pensioner whose pension admittedly comes to him by virtue of an Order in Council made in pursuance of the Naval and Marine Pension Act, 1865, may perhaps be in a better legal position.

These anomalies and legal curiosities arose from the desire of the economists to get rid of the financial burdens which they considered were unnecessarily put upon them by Windham's Act. In every War Pension history there comes a time within a few years of war when the new generation desires to get rid of its liabilities.

In 1828 a Committee on Public Expenditure considered the question of pensions. Thirteen years had elapsed since the battle of Waterloo, and in accordance with the natural trend of these matters the economists were in the ascendant. The pension estimates of 1828 gravely troubled them. £1,382,091 was required for pensions at Chelsea and Kilmainham, £260,000 for the

out-pensioners of Greenwich Hospital, and £187,600 for disabled men in the Ordnance. The Committee laid the blame for this enormous expenditure on the system adopted in 1806 under Windham's Act. They were sorely tempted to suggest that these arrangements should be repudiated, but they rightly came to the conclusion that they were "engagements little short of positive compacts," and that to recommend a diminution of payments would be "an apparent breach of faith to the men who are now in the service." The legal right conferred upon men who had enlisted and served under Windham's Act was respected but it was not renewed.[1]

The Chelsea Hospital Act of 1826 was passed in April, and an early Warrant signed by Palmerston on 13th June 1826 does not refer to its provisions. On the contrary, the pensions to be granted are referable solely to "Our Royal Bounty" and "Our Warrant shall be the sole regulation on this head." It seems fairly clear, therefore, that the official view was that with the repeal of Windham's Act the legal right to a pension disappeared, and once again the matter became a question of bounty.

Since that date we have not found in any Royal Warrants that we have seen any reference to statutory authority for their issue, though it would not perhaps necessarily follow from that fact alone that Army Pensions do not owe their legal force to the Act of 1826. Each Warrant seems to extend its own power.

[1] Third Report of Select Committee on Public Income and Expenditure, 1828. Brit. Mus. Reports and Committees (2), 1828, v.

In the Warrant of 23rd July 1864, signed by Lord De Grey and Ripon, we read that "It is Our will and pleasure that instead of the provisions contained in pages 211–237 of Our Royal Warrant of the 1st July 1848, which are hereby cancelled, this Our Royal Warrant to be administered and interpreted by Our Secretary of State for War shall be the sole and standing authority upon the matters therein contained."

The claim of the right of interpretation, being in the Secretary of State, would seem definitely to oust the Courts of Law if, of course, as we must assume, it is well founded.

Although the administration of Army Pensions was in the hands of the Royal Commissioners of Chelsea they acted in conjunction with the Army Council and the Secretary for War. The Royal Warrant for Army Pay (1914) has a large number of orders relating to pensions, and it is stated which of these pensions are dealt with at Chelsea. But in the same Warrant there are also provisions about annuities and gratuities for distinguished conduct and meritorious service, and a series of Orders dealing with pensions and compassionate allowances to widows and children and other persons which are dealt with by the Army Council and the Secretary for War and are not referred to the Chelsea Commissioners. When we come to deal with the institution of the Ministry of Pensions these, too, will have to be considered.

We have now dealt with the story of the War Pensions of sailors and soldiers, and shown how they

came under the control of the Admiralty and the Chelsea Commissioners. It remains to consider the story of the War Pensions granted to widows and orphans. These date from the Crimean War, and necessitate a consideration of the affairs of the Royal Patriotic Fund.

CHAPTER III

THE ROYAL PATRIOTIC FUND

"I do not give you to posterity as a pattern to imitate, but as an example to deter."—JUNIUS, Letter xii.

IT may be a matter of surprise to some that we have considered it necessary to devote so much space to the history of this Institution. To our mind, however, it is essential to the right understanding of the pension problem that its story should be told. For over half a century it was the chief pension institution in the country, and its rulers fought hard against local administration, publicity of action, and nearly every first principle of pension management that we hope will prevail in the future. Much public money and Parliamentary time have been spent in inquiring into and criticizing its career, but we have not come across any available précis of the results. Moreover, the present Ministry is a direct descendant of the Fund which has been built on its ruins but must never be permitted to be hampered by its traditions. The story must be told now lest by any means it should be forgotten and the errors of the past repeated.

On the 28th March 1854 England declared war on Russia. An expedition was sent to the Crimea and

the battle of Alma was fought on 20th September. The loss of the British was 26 officers and 327 men killed, and 73 officers and 1539 men wounded. We had been at peace for many years and the results of this, the first battle of the campaign, brought home to the nation the fact that this war, like all other wars, entailed casualties, that the killed would leave widows and orphans, and that the surviving wounded would probably be incapacitated from earning their livelihood during the rest of their lives. The nation also seemed to realize as in a flash the fact, which afterwards was so deeply impressed upon them, that means did not exist for adequately dealing with these unavoidable circumstances. On the 4th October 1854 a leading article appeared in the *Times*, commenting on the situation produced by the victory of Alma and mentioning that in that battle the loss to the British troops was said to be 1400 killed and wounded. The writer went on to say that for "wives and children" he must soon write "widows and orphans," and that both must be a charge, not only upon our liberality but upon our justice; that it was a time for "patriotic offerings—for the establishment of such a fund as will ensure against want and suffering the representatives of those who have fallen in their country's cause." A strong wave of feeling passed through the country and moved the Government to action. On the 7th October 1854 a Royal Commission bearing the Royal Sign Manual was issued by the Secretary of State for War constituting the Patriotic Fund. The objects of the Fund and the principles of its application were laid down to be the

"succouring, educating and relieving those who by the loss of their husbands and parents in battle, or by death on active service in the (then) present war are unable to maintain or support themselves."[1]

Of the original Board the Prince Consort was President, and the directorate consisted of statesmen, legal and financial authorities as well as distinguished representatives of both services. The Fund from the first and at all times was intended to relieve "the widows and orphans of seamen, soldiers and mariners."[2] With the exception of the shortlived Cromwellian ordinances referred to in our first chapter this is the earliest national recognition of the claims of widows and orphans to War Pensions.

No doubt the early administration of the Fund was satisfactory to the public and those who received relief. The fact that there was money for their succour and that, in the words of the Royal Commission, "a just and generous benevolence" of any kind was being exercised towards widows and orphans who had no expectation of relief must have seemed at the time a great improvement and reform. Subscriptions ceased somewhere about 1860, but by that time the Fund amounted to £1,467,000.[3]

It is melancholy to note how in every age the generous spirit that in war-time readily provides for the wants of widows and orphans is almost certainly followed by a period of apathy and neglect. The Prince Consort was by no means a merely nominal

[1] Select Committee on Royal Patriotic Fund Report, 1895, p. 1.
[2] *Ibid.*, 1896, p. iv. [3] *Ibid.*, 1895, p. 7.

President of the Commission, and for the first few years all went well. Troubles began when the Commissioners started an ambitious and unauthorized programme of building and endowing schools. In 1857 the Commission decided "to establish and permanently endow an institution for the education of 300 daughters of soldiers, sailors and marines. It was necessary to provide religious training for this large number of children, and that of the Church of England was selected. A chaplain was appointed, and a chapel built at a cost of £5000. As might have been expected, it excited ill-feeling on the part of the Roman Catholics, for whom there was no place in the new school. The *odium theologicum* was violently aroused. . . . While all the squabbling was going on, the interests of the widows and orphans took a second place. We can judge of this by the absence for four years of any public utterances of the Commissioners, who drew up no report between 1858 and 1862. The report of the latter year, which was not printed for nearly a twelve-month, is not pleasant reading. The Royal Victoria Patriotic Asylum, which was to be a memento to all time of the generosity of the British people, had become a sort of Dotheboys Hall. The children were employed in scrubbing the floors and cleaning the windows, so that they did not get much schooling. One poor girl had been burned to death in solitary confinement. Some of the elder pupils were in a state of chronic hysteria, through attending revival meetings, and by order of the secretary had been sent to London to be cured by mesmerism. The majority

of the lady visitors, finding that the officials responsible were to be retained, very naturally resigned, and the name of Angela Burdett-Coutts, added to the indignant protests, is strong evidence of the utter mismanagement that prevailed."[1]

When the Prince Consort died, the Duke of Newcastle was elected President of the Fund, and during his illness the Duke of Somerset, then First Lord of the Admiralty, acted for him. At a meeting of the Commissioners on 10th March 1865, the Duke, "thinking the administration of the Fund was very unsatisfactory, brought the subject before the Commissioners. The Commissioners agreed with him as to the management of the Fund, admitting that it had been injudicious, but at the same time did not think it necessary to remove the executive officer under whom the mismanagement had taken place. That being the case he (the Duke) had declined any further responsibility in connection with the Commission, and accordingly he withdrew his name from the Board."[2]

Earl Nelson, who remained for many years on the Board and was a champion of their policy, declared, on the other hand, that "under the management of an admirable executive committee the affairs of the Fund were efficiently and satisfactorily administered."[3]

Misplaced complacency has always been the stumbling-block of pension administration, and there is

[1] Kearley, "The Royal Patriotic Fund," *Fortnightly Review*, 1894, vol. iv. p. 637.

[2] *Hansard*, 1st June 1866, c. 1683. [3] *Ibid.*, 4th June 1866, c. 1769.

abundant evidence that the executive officers and committee by acts of misapplication and bad management had got the Fund into serious difficulties. The Duke of Somerset, who was appealed to, made no offer of helping the administrators out of their difficulties, when fortunately for them the Government was defeated on 18th June 1866. Mr. Gladstone and his Ministers resigned on 26th June, and the third Derby Cabinet was formed on 6th July. On 31st July General Peel, the Secretary of State for War, and Sir J. Pakington, the First Lord of the Admiralty, brought in the Patriotic Fund Bill, 1866. Without a word of introduction or debate it ran through the necessary stages at the end of the Session and received the Royal Assent on 10th August. This statute (29 & 30 Vict. c. 120) consisted of one section taking power for Her Majesty to direct the application of the Patriotic Fund to the purposes of education. This, of course, was not a sufficient legal condonation of what had been done by the Commissioners, but it was the thin end of the wedge which next year was to be driven farther into the tree.

The Commissioners had now arranged that their Secretary, the executive officer, over whose acts there seems to have been so much unfortunate dispute, should hand in his resignation and receive from the Fund a pension of £300 a year. They were also determined to continue their education policy, and no doubt they were advised that nothing short of Parliamentary sanction could enable them to carry out their plans. The Bill of 1867 was introduced by the Earl

of Longford as a necessary amendment of the Act of 1866, and this too passed through all its stages without debate or discussion.

By these means a careless Parliament permitted money which the public had subscribed with eager generosity for the widows and fatherless of those who had fought for their country to be applied to entirely different uses. The way in which the Commissioners justified their actions to themselves is not very clear, but they seem to have been inspired by a dislike of administering charity and a well-meaning, if not very intelligent, enthusiasm for education. They were influential and important people, and liked having their own way.

From the first and throughout their career they laid stress on the fact that they were doling out a charity and not fulfilling an obligation towards their beneficiaries. The *Digest of the Patriotic Fund*, 1904, prints in italics the words of the original Commission, "Succouring . . . those who . . . *are unable to maintain or support themselves*," and among the fixed principles of the Commission it is stated that "widows who by proper exertion are able to make a respectable livelihood are not so long as such is the case in a position to receive the same allowances as widows who through want of health, or the number or helplessness of their children, are not able to maintain themselves."[1] A widow's pension seems to have been five shillings, so that although the Commissioners may have followed the instructions of the original Commission as to

[1] *Digest of the Patriotic Fund*, 1904, p. 5.

"justice" they cannot have been said to have erred on the side of "generosity."

There seems no reason to doubt that the Act of 1867 was necessary to legalize this well-intentioned misapplication of the widows' and orphans' money to educational uses. Later on in the story the Commissioners and their officials took refuge in the common excuse that they had not power to take this, that or the other action, to assist their beneficiaries, but it will be seen that they readily assumed power to do many things entirely outside the scope of the Royal Commission.

The preamble of the Act of 1867 (30 & 31 Vict. c. 98) narrates that the Executive Committee of the Commissioners have appropriated part of the Fund for the erection of a girls' school and a boys' school, and that "it is expedient that the appropriations aforesaid be now confirmed by Parliament." The Act was sweeping enough. It provided for the application of the Patriotic Fund to existing appropriations and authorized any Supplementary Commission to issue, permitting contributions to be made "to Royal or other Charitable Institutions." This clause might have been of considerable value if the Commissioners had at any time desired to obtain a Supplementary Commission to assist them in schemes of greater generosity to the widows and orphans.

One section of the Act calls for special notice. The Commissioners took power to award any person who had been employed by them "such pension or retiring allowance as to Her Majesty Her Heirs or Successors

seems fit to be paid out of the Patriotic Fund."[1] This was apparently necessary to meet the case of a gentleman who joined the Commission as honorary secretary but who during the last seven years of his service had received a salary of £600 a year. He retired in 1867 on a pension of £300 a year, which he continued to enjoy for twenty years. He retired from the Navy in the same year and received a service pension of £1 a day, augmented in 1869 to 25s. a day.[2] Generosity of this kind at the expense of the Fund, though no doubt well deserved by the recipient, contrasted unfavourably with the allowance of 5s. a week to widows who had to prove that they were "unable to maintain or support themselves" without it, and risked the loss of it if they married again.

In defence of the Patriotic Fund adminstration it was urged in later years that Parliament had limited their powers by the Acts of 1866 and 1867, but this does not seem to be the true view.[3] The Fund was a War Relief Fund for widows and orphans. The Commissioners held Victorian views of the inadvisability of granting large pensions to poor people and were deeply interested in schemes of education. With the very best intentions they appropriated money belonging to one scheme to what they considered a better scheme. It became necessary to come to Parliament to approve of this appropriation. It is clear that the Acts were drafted as the Commissioners wished, and when they

[1] 30 & 31 Vict. c. 98, s. 19.
[2] War Relief Funds Committee, 1900, Evidence, p. 116.
[3] *Ibid.*, p. 123.

took powers to pay a considerable pension to a naval officer already in receipt of 20s. a day they could have taken any reasonable powers they wanted to deal more generously with widows and orphans. They did indeed take powers to apply for Supplementary Commissions for new powers of using the Fund, and it is clear that never during this period did anybody in Parliament attempt to hinder them from doing anything appropriate or inappropriate which they considered desirable.

The policy of spending large sums on educational endowments brought the Royal Patriotic Fund very nearly to a state of default. The Royal Victoria Patriotic Asylums Endowment Fund stood at something like £180,000, and other educational institutions were largely endowed out of the Fund, including a boys' school, so that in the year 1880 the Patriotic Fund was in danger of not being able to keep up its pittances to the widows and orphans. As Colonel Young, the Secretary of the Fund, explained: "The Commissioners launched out into expenditure after 1867 which brought them under the ban of public censure in 1879 and 1880, and it was generally admitted that the extension of the application of the Fund to the erection of a boys' school was the cause of that: and consequently the boys' school was put an end to."[1]

It was not only the expense of the boys' school but also the general policy of educational endowment that brought the Fund into default. The Royal Victoria Asylum for Girls had cost and was costing a great deal

[1] Select Committee on Royal Patriotic Fund, 1895, p. 9.

of money, and there were other endowments. The position is thus described by their own secretary, Colonel Young: "In 1881, undoubtedly, a financial crisis occurred in the history of the Patriotic Commission, and no one has been more honest than the Commissioners themselves in admitting the cause of that financial crisis. It was neither more nor less than putting into educational institutions pounds, shillings and pence."[1]

Mr. Childers and Lord Northbrook, then respectively at the head of the War Office and the Admiralty, wrote a letter to the Commissioners proposing that they should be dissolved. They were ready to give up their boys' school—indeed, something had to be sold to avoid bankruptcy—but they wanted to continue the girls' school. "Under these circumstances," said the letter, "as the educational work of the Commission will in future be confined to the girls' school, it appears to Mr. Childers and to Lord Northbrook, with whom he has been in consultation, that it is a matter for the consideration of the Commissioners whether it would not be the best course to arrange for the prospective closing of the girls' school and to dissolve the Royal Commission (which, however effective for raising funds and instituting a plan for their expenditure, is not from its constitution and the absence of responsibility to any department of the Government the most effective for administration) and to transfer to the Commissioners of Chelsea Hospital and the Greenwich Hospital Branch of the Admiralty the duty of paying the

[1] War Relief Funds Committee, 1900, Evidence, p. 124.

pensions granted by the Commission with a sufficient appropriation of the funds to meet them."[1] No doubt it would have been an excellent thing if this proposal had been carried out, but a compromise was arrived at. Representatives of the Admiralty and the War Office joined the Patriotic Fund, the boys' school was sold for £32,000 at a loss of £700, and an Act of Parliament was passed to carry out these objects.

In their Digest of the Administration and Finance the Commissioners thus describe the position: "In 1880 the financial position of the Patriotic Russian War Fund attracted public attention and anxiety, and in a letter dated 20th August 1880 the Secretary of State for War pointed out to the Commissioners that, according to the Report of Referees, the liabilities exceeded the assets by about £150,000. By the abandonment and sale of the School for Boys erected adjacent to the Royal Victoria Patriotic Asylum for Girls at Wandsworth Common, and by the suspension of restoration of re-married women to allowances on further widowhood the deficiency in the assets was wiped out and the Fund restored to a sound financial condition in 1881."[2]

When the Patriotic Fund Bill, 1881, came before the House of Lords the House was assured that the "Commissioners had promised to make considerable reduction in their office expenses, hoping by that course to relieve themselves of liabilities to the extent of some

[1] Investigation by Secretary for War and First Lord of Admiralty, Parliamentary Paper, c. 2956, 1881; and War Relief Funds Committee, 1900, Evidence, p. 122; Report on Royal Patriotic Fund, 1895, p. 5.

[2] *Patriotic Fund Digest*, 1904, p. 7.

£20,000." The Duke of Somerset reminded the House that "the embarrassments of the Fund had arisen in a great measure from the original Commission which left a great deal to its Secretary who was once or twice reprimanded by the Commissioners."[1] This Secretary had been allowed to resign, but was still drawing £300 a year.

The Bill went through with very little debate. It took powers to sell the Royal Victoria Patriotic Asylum, and the very curious provision was inserted that "the purchaser shall not inquire into the legality of the sale or into the application of the purchase money or be responsible for the non-application or misapplication thereof."[2] Power was taken to appoint new Commissioners to issue Supplemental Commissions, and the Commissioners were not in future to be allowed to pension their servants out of the Fund without the permission of the Treasury.

This statute and a succeeding Act of 1886 (49 & 50 Vict. c. 30) placed the Commissioners firmly in the saddle again. Various new funds raised by the public, such as the "Eurydice," "Captain," "Zulu War," "Atlanta," "H.M.S. Victoria," and other public charitable subscriptions, were handed over to the Commissioners and administered by them on principles of Victorian caution and economy, and for a further period of years they ceased to occupy public attention.

Not only did these statutes extend the powers of the Commissioners to apply their surpluses "for the benefit

[1] *Hansard*, 28th July 1881, c. 9.
[2] 44 & 45 Vict. c. 46, s. 2.

of widows and children of officers and men of Her Majesty's Military and Naval Forces," but the Act of 1886 (49 & 50 Vict. c. 30) empowered the Commissioners "from time to time to ask for and receive contributions from the public for such purposes being for the benefit of the widows and children of officers and men of Her Majesty's Naval and Military Forces."[1]

The Commissioners had now ample funds. They had large powers and if they wanted further powers they could apply for a Supplementary Commission, and they could ask and receive contributions if they wanted more money.

In 1894 the surplus was estimated at £74,136. The number of Crimean widows left in the Fund at the beginning of 1896 was 1314, and the rate of decease among them was about 60 or 70 a year. For the preceding fourteen years many applications had been made to the Commissioners "for relief from widows of men who served in the Crimea who did not come within the letter of the conditions under which the Fund had to be administered but to whom it was desirable that assistance should be given by the issue of a New Commission."[2]

The Commissioners continued their old scale of payments: 5s. for a widow, 7s. for a widow and one child, and 1s. 6d. for every additional child. It was not, of course, a living wage, but there was no appeal. Their motto, "No claim to relief is acknowledged as a

[1] *Patriotic Fund Digest*, 1904, p. 7.

[2] Report of Select Committee on the Royal Patriotic Fund, 1896, p. iv.

right,"[1] precluded all argument. Nevertheless, when stories of the widows of men who had served in the Crimea were made known and it appeared that there were technical objections to their receiving relief from a surplus in the hands of the Commissioners, which objection the Commissioners seemed powerless to overcome, they were once again brought under the ban of public censure and the House of Commons on the 21st February 1895 appointed a Select Committee to inquire into the administration and financial position of the several funds under their control.

There seems no doubt from the evidence that the Commissioners had taken a very narrow view of their duties to applicants and had to a considerable extent hoarded their funds. For example, there was a fund under the control of the Commissioners called the Rodriguez Fund, which was a bequest by a Spanish gentleman to be devoted to families of English subjects dying or wounded in the Wars who were really indigent and necessitous. A few dependants of officers received grants from this fund but no dependants of ordinary soldiers or sailors received benefits, and the original bequest of £7380 accumulated to no purpose to £14,770. Under section 21 of the Patriotic Fund Act, 1867, special powers were taken by the Commissioners to apply for a Supplementary Commission to spend the Rodriguez Fund on the general objects of the Patriotic Fund, and there seems no reasonable excuse for not having done so.

The Select Committee dragged on through 1895 and

[1] Select Committee on Royal Patriotic Fund, 1895, p. 156.

1896, making its report on 12th August of the latter year, a day on which wealthy public men apply themselves to sport other than the study of Blue Books. The evidence and the debate on Mr. Kearley's effort to get a more vigorous Report are of considerable interest, but the actual Report itself is a colourless affair. It suggested that "it is the intention of the donors to a fund for a special calamity that the money raised should be expended on the sufferers," a truism which the Commissioners had clearly overlooked. It mildly advised less restricted grants of relief, hoped that the Commissioners would get into closer touch with the authorities at Chelsea and Greenwich who dealt with pensions, thought that by a system of five years' term of office a little new blood might be infused into the business, and thought something might be done in the way of giving greater publicity to the existence of the Commission and its powers to grant relief.

Whilst this Committee was sitting, the Patriotic Fund Commissioners themselves met in Committee under Lord Herschell, who suggested that a Supplementary Commission should be applied for and that a Consultative Committee of all Boards administering Funds should be formed.[1]

The excitement of these excursions and alarums having died away, the Royal Patriotic Fund continued their work, much in the old way, until the outbreak of the Transvaal War in October of 1899 once again brought the subject of War Pensions before the public mind.

[1] War Relief Funds Committee, Evidence, 1900, p. 246.

Almost at once the country awoke to the necessity of providing funds for the relief of widows and orphans. Large sums of money were subscribed locally. The *Daily Telegraph* and the *Daily Mail* raised funds. The Soldiers and Sailors Families' Association, Lloyd's Patriotic Fund, the Imperial War Fund and other societies provided schemes of relief. The simple way out of the difficulties would have been to have handed all the monies to the Royal Patriotic Fund to distribute, but the country would have none of it. That the Commissioners did not distribute the funds at their disposal in "the most impartial and beneficent" manner and "according to the generous intention of the donors thereof," as they had been directed to do in Queen Victoria's original Commission, was strongly felt throughout the country, and on 19th February 1900 Mr. Balfour appointed an independent Committee, "neither Departmental nor Parliamentary,"[1] to "inquire how all the various funds might be distributed with the least waste and to the best advantage of those for whom they were intended."[2]

The Commission was not only independent, but was presided over by Lord Justice Henn Collins, a lawyer and scholar of great attainments, and although a man of much human sympathy entirely untouched by anything like sentimentalism. Indeed, his decisions in the Court of Appeal on Workmen's Compensation matters had always been rather narrow and technical, so that he was not in the least likely to be carried astray in

[1] *Hansard*, 19th February 1900.

[2] War Relief Funds Committee, 1900, Report, p. 5.

any judgment against the Patriotic Fund Commissioners founded on anything less than clear evidence. It is important to remember this, as the official view of the Report afterwards suggested that Lord Justice Henn Collins had been misled by popular clamour.

The official case put forward by Earl Nelson and Lord Chelmsford was that everything they had done was done in the best possible way, and that the trouble was caused by other bodies overlapping and interfering with their good work. It was true that they had no adequate system of local inquiry and did not approach or consult other bodies as had been recommended by a Committee presided over by Lord Herschell in 1896. But all these things were, according to official evidence, impracticable or impossible or the fault of other people. The newspapers said that they were not worthy of confidence, but they did not agree with their verdict. The man in the dock often complains of the frame of mind of the jury. The official attitude is well exemplified by a remark of Lord Chelmsford: "From my nineteen years' experience of working closely with the Patriotic Fund I really do not see that we have erred in any way."[1]

To people in this frame of mind the Report of the Collins Commission must have seemed peculiarly uncalled for. For their verdict was that "the evidence before us and the returns from local centres show in many instances a want of confidence in the management of the Patriotic Fund which has led to a withholding of contributions." They were clear that overlapping existed, and found that this was "in the main deliberate

[1] War Relief Funds Committee, 1909, Evidence, p. 31.

and intended to give effect to the supposed desire of the public to deal generously with the widows and orphans of those who have lost their lives in the service of the country." They detail the pittances provided for the widows and children by the Patriotic Fund, and without expressing any opinion as to whether they could have done better with the means at their disposal state unequivocally that the standard they had set as sufficient was insufficient, and as the Commissioners did not or could not raise it and it was obvious that it fell below "the standard which the public would desire for the objects of their bounty," that therefore overlapping was "not only probable but desirable." We have an exact repetition of this position to-day, when the Minister of Pensions has had to form the voluntary King's Fund to enable him to do justice to the men whose claims the Treasury will not meet.

Finally, they summed up the position in these words: "While as pointed out the existing system of the Patriotic Fund Commissioners does not, except on the points named, involve to any considerable extent waste or injurious overlapping, we desire to record our opinion that unless they radically change their present method of administration so as to make it at once more business-like and more elastic and also take steps to ensure complete and cordial co-operation with the persons distributing local funds, the public confidence, which has been rudely shaken, will never be restored and thus the only central fund in the country for the permanent relief of the widows and orphans of soldiers and sailors will cease to exist. This would be a great public

misfortune. It is of the utmost importance that the flow of subscriptions should not be interrupted at the present crisis, and if the Patriotic Fund Commissioners adopt the suggestion here made, we venture to hope that funds will be entrusted to them adequate to the needs of the present war."[1]

The Report also contains a wise suggestion that the Government should provide some War Pension for widows and orphans which, as we shall see, continued to be officially ignored until long after the commencement of the present War.

In 1901 a Select Committee of both Houses met together to see what could be done to restore the prestige of the Royal Patriotic Fund. The evidence, mostly official, throws no new light on the matter. The findings of the Collins Commission were clearly sound and, as the Select Committee admitted, had irretrievably "weakened the position and authority of the Patriotic Fund Commissioners as an Administrative Body."[2] They therefore suggested that its "business should be handed over to two Boards of Pensions, one for Naval and one for Army Pensions, and that these should be subject to Parliamentary control." These suggestions, however, involved wiping out the Royal Patriotic Fund Commissioners altogether, and this was thought to be too harsh a proceeding. There still existed in official circles those by whom their history and deeds were held in reverence. Therefore, in 1903 the Patriotic Fund Reorganization Act (3 Edw. VII. c.

[1] War Relief Funds Committee, 1900, Report, p. 12.

[2] Charitable Agencies Committee, 1901, Report, p. vii.

20) was passed, so that the old name might not be lost. The new organization was called the Royal Patriotic Fund Corporation, and consisted of twelve members called "appointed members" nominated by His Majesty, with whom were associated Lords Lieutenant of Counties, Chairmen of County Councils, Lord Mayors and Mayors of every County Borough in England, Wales and Ireland, and similar officials from Scotland as well as seven co-opted members nominated by other Charitable Funds. The Corporation was, of course, really managed by an executive committee and officials. This Corporation was in existence when the present War broke out and the rest of its history belongs to the next chapter.

It is not our purpose to do more than tell the story of War Pensions in which this Fund plays an important part, but to any one who is interested in studying in detail the causes of the Commission's failure in pension administration we may refer them to the Reports and Evidence from which we have quoted. It is clear that want of publicity, exaggerated centralization and a narrow type of Departmentalism impatient of local assistance and co-operation, resulted in inefficient methods of administration and in a total loss of public confidence. It is from these lessons of the past that we can at least learn what pitfalls modern pension administrators must avoid.

CHAPTER IV

THE MINISTRY OF PENSIONS

"They also to whom Jurisdiction is given, are Publique Ministers. For in their Seats of Justice they represent the person of the Soveraign; and their Sentence is his Sentence."—HOBBES'S *Leviathan*, Pt. II. ch. 23.

WHEN the War started we were entirely without any machinery to deal with War Pensions upon an adequate scale. There were, as we have seen, no less than four authorities in different places having cognizance of the matter, namely, the Chelsea Commissioners, the Army Council or the Secretary of War, the Admiralty and the Patriotic Fund Corporation. Needless to add, overshadowing all was the Chancellor of the Exchequer and the Treasury.

In November 1914, Mr. Hayes Fisher, then in Opposition, urged upon the Government a unified system of pension administration. He suggested that "the whole of this question of the allowances to wives and children during the War and pensions for disablement, whether from wounds or disease after the War, and the question of pensions and allowances for widows and dependants after the War ought to be handed

over to one body sitting in one building under one roof. . . . At present part of the question is considered by one body, part by another and part by a third body, and consequently there is great perplexity and a certain amount of overlapping necessitating sending for papers here and there. After a very great experience I say that these questions could be much more satisfactorily settled if we had one body under Government control."[1]

It seems little short of marvellous that no attention was paid to such an obviously sensible proposition. At that time there were only 250 officials dealing with the whole of the pension administration in London, and, once placed under unified control, a machine could have been started capable of evolution and expansion to deal with a problem that even in November 1914 was clearly bound to arise. But Mr. Fisher was told that his suggestion was too revolutionary and drastic. Official complacency and Government indolence were too many for him, and two years afterwards the whirligig of time brought him on to the Government Bench to bring forward a Bill to deal with the very subject that he had warned the Government not to neglect in the early months of the War.

A Cabinet Committee now met to consider a revised scale of pensions. This was followed by a Select Committee under Mr. Lloyd George, whose proposals were embodied in a new Royal Warrant of 21st May 1915. But nothing further was done in the way of

[1] Official Report, House of Commons, 18th November 1914, vol. lxviii. col. 457.

legislation towards the establishment of a Ministry of Pensions until 10th November 1915, when the Naval and Military War Pensions Act (5 & 6 Geo. V. c. 83) was passed. As this statute is the basis of the present pension system, its provisions are worthy of careful consideration. For the purposes of "War Pensions," that is to say, in the words of the first section: "pensions grants and allowances made in respect of the present war to officers and men in the Naval and Military services of His Majesty and their wives widows children and other dependants and the care of officers and men disabled in consequence of the present war,"[1] there was constituted a Statutory Committee of the Royal Patriotic Fund Corporation, consisting of twenty-seven members. It was intended that this should be a permanent body, and that members should serve for three years and be eligible for reappointment.

To assist the Statutory Committee in the execution of its duties, Local Committees were established for every county and county borough, and in some counties District Committees were also to be appointed.

It seems a somewhat curious solution of a pressing problem to form a Statutory Committee of an existing Corporation and give it no executive powers that the Corporation did not itself already possess. Moreover, it is hard to understand on what grounds the Government considered the Royal Patriotic Fund Corporation a suitable body to control a national system of War Pensions. But assuming it was the right body to take

[1] See, too, for definition of "Service Pensions," § 9, Ministry of Pensions Act, 1916.

the matter in hand, the Government should have given it powers to act, and act promptly and effectively.

The functions of the Statutory Committee, set out at great length in Section 3 of the Act, are to decide questions of fact on the determination of which pensions depend, to frame regulations for supplementary grants "out of funds at their disposal," to supplement pensions and make grants and allowances. Here it must be noted that the statute leaves it very much in the air where "the funds at their disposal" are to come from. It suggests that the Patriotic Fund might find some money for its new Committee, and so, no doubt, it did; or it might come from Local Committees, or it might come from charitable societies. Assuming they got any money to distribute they might distribute it, and so might the Local Committees whose powers are also defined at length.

The Admiralty and the Army Council had each one representative on the Statutory Committee, but the Chelsea Commissioners do not seem to have been officially represented, and the statute does not provide for any real co-operation between these bodies and the new Committee. Assuming the new Committee could get the money, and assuming by correspondence with the Admiralty, the War Office and Chelsea it could get the necessary papers and information to consider a man's claim, it could then supplement existing pensions or help a man to maintain himself and his family until the other pension authorities got to work.

The Admiralty and the Army Council were bound by the statute to give the new Committee any

particulars about cases, but there was no such duty cast upon the Chelsea Commissioners. No doubt all these bodies did their best to work harmoniously, but the system, or rather want of system, was bound to lead to the maximum of correspondence and delay with the minimum of business done, and it was scarcely fair to the patriotic and hard-working men and women who formed the Statutory Committee to put them in the position of public purveyors of pensions without goods to deliver or machinery to provide them.

The year 1916, therefore, commenced with all the old original pension authorities working on their own, with the addition of the Statutory Committee, a new central power, and the Local War Pension Committees all over the country. These Local Committees from the first showed themselves to be of the greatest value, and it is not too much to say that the voluntary work of men and women on these Committees throughout the country has done much to redeem our War Pension business from failure and disaster. For the first time in pension administration we had Local Committees in every centre. The next problem, which is still in the course of solution, was to get adequate co-operation between the Local Committees and the London centres. Unfortunately for the Statutory Committee, their Act of Parliament gave them very little guidance how to set about this, and great delays and troubles arose from the fact that the Statutory Committee was only a conduit pipe of communication between the Local Committees and the Admiralty or the Army Council or Chelsea.

On 30th March 1916 another statute (6 Geo. V. c. 4) was passed making a grant of £1,000,000 to the Statutory Committee, an entirely inadequate allowance in itself, and Local Committees were allowed to get their administration expenses out of the rates if they could persuade the ratepayers to provide them.

This was the contribution of the Government towards the solution of our difficulties. No doubt they were hampered by the conservatism of existing authorities who resented giving up their pension powers and sharing their authority with others. At best the new system could only be a makeshift. To any one but a statesman the institution of the Statutory Committee without giving it clear powers to enforce its will could not have seemed a very hopeful experiment. Excellent and sympathetic as the work of the individuals comprising it may have been, the addition of a Committee could not relieve a situation that was already suffering from circumlocution and overlapping.

By the following November the condition of things throughout the country was beginning to make itself known, and the Government felt bound to make a further move. On 21st November 1916, Mr. Hayes Fisher introduced the Board of Pensions Bill. The debate on this occasion is worth reading, because it shows that although for two years nothing effective had been done, enlightened members thoroughly understood the problems that were awaiting solution.

Mr. Fisher himself referred to the men's grievances

with knowledge and sympathy. Complaints were made that "men were discharged and their pay drops before their pension reaches them." Another "very great sore" he describes, is one that has probably caused more unrest in the minds of citizens who joined our Army, and their friends and families, than any other form of neglect they may have suffered. "It is that the Recruiting Officers are taking men who are of so unsound a constitution and so impaired in their health that they are almost certain, with even moderate exposure, to break down in a very short time, and they will become claimants upon the State for a pension. I am the last person to say that because a man is taken, and because he is given two or three months' service, he should after his discharge unfit for service have the right to be given a pension for life by the State. But I do think the State owes this to him—that, as far as possible, it should repair and refit him for the labour-market and see him back as far as possible into the conditions in which he was when he joined the Army. I will go further than that. I have always thought that, if it is proved that at the time when he was taken for the Army and for some time before that he had been enjoying good wages in the labour-market, and maintaining himself and family, then if, after two or three months' service, he came back in a crippled condition, unfit to earn anything but a very small wage, he had a *prima facie* case to have some pension given to him, sufficient in amount to maintain him and his family until he could be repaired and refitted and recruited to take his place in

the labour-market and go back and maintain himself and his family in civil life."[1]

A glance at the cases brought before the Tribunal, which are collected in Chapter VI., will show that although the House of Commons and the people desired these broken men to be pensioned, yet the various authorities had not as yet understood that desire, or at least had not in many cases seen that it was carried out.

There was no doubt that the neglect of the principles so clearly stated in the House was, as Mr. Fisher said, "a very great sore" at that time. The reason why cases of this kind were left without redress may be summed up in one phrase, "want of system." It was not that the officials who tried to work the old system were hard-hearted or remiss, but the system that was sufficient for a Regular Army broke down under the new conditions, and the official mind clung to its old ideas and continued to pour new wine into old bottles with cheerful but disastrous obstinacy.

As Mr. Forster, the Financial Secretary to the War Office, very truly said: "The War Office and Chelsea have never been in personal contact with the pensioners . . . one of the greatest drawbacks of our present system is that those who have to fix the pension fix it on paper only and are never brought into actual living contact with the individual."[2] This is indeed a very real and obvious disadvantage to our pension system, but it is scarcely enough for a Minister to be satisfied

[1] Official Report, House of Commons, 21st November 1916, vol. lxxxvii. col. 1266.

[2] *Ibid.*, col. 1310.

with enunciating it. One would expect that a remedy would be found for it. Yet although for a year the Appeals Tribunal put examples of the evil before the Ministry, difficulties seemed even then to stand in the way of adopting a better system.

Another grievance was that the decisions were made by unknown officials and not by persons of independence, and there was no Court of Appeal from such decisions. As Mr. Hayes Fisher himself agreed: "There ought to be some Appeal Court from decisions which are very often made on one case but which may rule pensions in hundreds of cases in which the claims are based on the same lines."[1] This again has proved very true, but at present there are no full official reports of pension cases, so that for want of precedents the same point is discussed and decided again and again.

There is no need to set out at length figures and instances of delay, neglect and muddle. The facts were not in dispute, and it was no use regretting what had been left undone—the problem was to provide a remedy. The Government proposal of a Board of pensions co-ordinating the War Office, the Admiralty, the Local Government and the Statutory Committee met with no hearty support. It was allowed a second reading on 21st November 1916, but the House and the country were tired of Boards; they wanted one man with responsibility, and on 30th November the Bill came before the House in an entirely new dress under the title of the Ministry of Pensions Bill. The

[1] Official Reports, House of Commons, 21st November 1916, vol. lxxxvii. col. 1263.

whole idea of the Board was dropped, and on 22nd December 1916, 6 & 7 Geo. V. c. 65 instituted a Ministry of Pensions.

Even then a clean sweep was not made of all the existing authorities, but at least certain powers and duties were handed over to a definite authority, as will be seen by a perusal of Sections 2 and 3 of the Act, which are set out at length in the Appendix.[1]

From a perusal of these it will be seen that the Ministry of Pensions started life with no precisely defined powers of its own, but that in relation to War Pensions it took over the powers and duties, whatever they might be, of—

1. The Admiralty.
2. The Army Council.
3. The Secretary for War.
4. The Commissioners of the Royal Hospital for Soldiers at Chelsea, and
5. Had a "control," whatever that may imply, of the Statutory Committee and the Local War Pensions Committees who continued their functions.

The narrative we have given of the different institutions which go to form the new institution called the Ministry of Pensions shows that in order to define accurately the new Ministry's powers, duties and authority it would be necessary to consult and collate a vast number of enactments and other documents containing rules, regulations, orders and powers.

[1] See p. 175.

Whether this has ever been done, and whether any one either in the Ministry or outside the Ministry has devoted the time and labour necessary to solve the puzzle, we do not know.

It is a somewhat remarkable thing that although this Act gives His Majesty power by Order in Council to "adapt," whatever that may mean, Parliamentary enactments which define the powers and duties that the new Ministry is taking over, yet it does not refer by title or other reference to a single statute under which War Pensions have been hitherto regulated and controlled. It is for the purpose of, to some extent, supplying that information that the inquiry in our earlier chapters was undertaken.

The Statutory Committee unfortunately was not dissolved by this Act, but was placed in the impossible position of continuing to exercise and perform its duties "under the control of and in accordance with the instructions of the Minister of Pensions."

The Ministry of Pensions, however, had power to take over the Executive Officers of the Admiralty, the Army Council, and Chelsea Hospital, who were at the time dealing with disablement pensions. For the first time a clear distinction was made between War Pensions, as we have called disablement, and widows' pensions and service pensions. A service pension is defined to be "any pension or award in respect of age, lengths of service, or special service or attached to any medal or other decoration, whether payable to persons who have been officers or men or their widows, children

or other dependants."[1] With these grants the Ministry has nothing to do. Indeed it is a pity that the misleading title of Ministry of Pensions was adopted. The Ministry only deals with reliefs and allowances to disabled men and widows and orphans of those who have fought in the War, and if these had been defined as War Pensions and the Ministry been called a Ministry of War Pensions, it would have better expressed the situation.

On the 29th March 1917 what is known as the Barnes Warrant came into force. As a matter of fact, two documents were issued: an Order in Council for the Navy, dated 30th March 1917, and a Royal Warrant for the Army, dated 29th March 1917.

It would be difficult even for a student of Constitutional Law to define with any accuracy the functional limits of the Order in Council and the Royal Warrant, but for practical purposes one may say that the Order in Council is used as the general medium by which the manifold statutory powers conferred upon the Crown are exercised, whereas the Royal Warrant is the method by which the Crown authorizes executive acts of its own motion. And this seems to be the reason why in pension affairs the Order in Council is used to give orders about Navy Pensions, which admittedly are conferred by Sec. 3 of the Naval and Marine Pay and Pensions Act, 1865, whilst Army Pensions, which are considered to be merely acts of Royal Bounty, are dealt with by Royal Warrant.

[1] 6 & 7 Geo. V. c. 65, § 9.

In practice, therefore, the Minister of Pensions who succeeds the Admiralty in dealing with Naval Pensions approaches the Crown and begs leave "humbly to recommend that Your Majesty may be graciously pleased by Your Order in Council to sanction the grant of pensions, allowances and gratuities on the scales and subject to the conditions prescribed in the Regulations annexed hereto." Whereupon His Majesty, having considered the Memorial, allows the new Regulations. That is to say, the Minister makes Regulations under the statute and takes them to the Crown for sanction.

But in Army Pensions it is the other way. Here the Crown by Royal Warrant directs the Minister to pay such pensions as he deems fit in these words: "Whereas We deem it expedient to consolidate and amend the provisions concerning the pensions of soldiers disabled, and of the families and dependants of soldiers deceased, in consequence of the present war, and to provide for their administration by Our Minister of Pensions in accordance with the Ministry of Pensions Act, 1916: Our Will and Pleasure is that this Our Warrant shall . . . be established and obeyed as the sole authority in the matters herein treated of; and that Our Minister of Pensions shall be the sole administrator and interpreter of this Our Warrant and shall be empowered to issue such detailed instructions in reference thereto as he may from time to time deem necessary."

At the present day, although one set of Regulations is drafted by the Ministry and presented to the Crown

for approval and the other set of Regulations is in the form of Orders from the Crown directed to the Ministry; the wording of the Regulations is the same. The necessity for the duplication seems to arise from the historical evolution of the two systems.

On 17th May 1917 a short Act was passed (7 & 8 Geo. V. c. 14) authorizing the Treasury to pay two-thirds of the expenses incurred by Local Authorities. Although, no doubt, a welcome relief to the rates, it obviously will have the effect in the future of limiting the initiative of Local War Pensions Committees and may have the further unfortunate effect of hampering their activities. This Act also gave the Minister powers to accept and administer gifts for assisting disabled officers and men. Side by side, therefore, with the administration of public funds the Minister of Pensions may become a private almoner of charitable gifts over which Parliament will, we must suppose, exercise no control. When this Act was passed there appears to have been no intention of abolishing the Statutory Committee, and powers were taken that the Chairman of that body, although paid by the State, should nevertheless have the right to sit in Parliament.

On 29th June 1917, however, Mr. Barnes brought forward a Bill for the abolition of the Statutory Committee. He very rightly claimed that in setting up 300 Local War Pension Committees, which were in the future going to act directly under the Minister of Pensions, a great work had been done. "We have

now, I venture to say, one of the finest of agencies in a whole network of Local Committees throughout the country in actual daily touch with the people who are to benefit; that work has been largely due to the disinterested efforts of men and women with special knowledge of the sailor and soldier and the needs of the family that are dependent upon them."[1]

In our travels with the Appeal Tribunal we had many opportunities of seeing the work of members of these Local Committees, and can heartily endorse the Minister's wise words. In the future of pension affairs it will be a bad day for the pensioners if any ardent supporter of bureaucracy were to endeavour to replace these Committees by paid officials and inspectors, but the modern tendency undoubtedly runs against such democratic institutions as Local War Pensions Committees and is in favour of centralized control working through official agencies.

On 21st August 1917 the Naval and Military War Pensions (Transfer of Powers) Act, 1917 (7 & 8 Geo. V. c. 37), was passed, and with it passed the Statutory Committee. The Royal Patriotic Fund Corporation, of which technically it was a Committee, remained as before and still remains with certain funds of its own under its old constitution. The Ministry of Pensions took over the Local War Pensions Committees, and there was established a new body called the Special Grants Committee which still retains certain specified

[1] Official Report, House of Commons, 29th June 1917, vol. xcv. c. 710.

powers of the Statutory Committee which can only be ascertained by a careful collation of the two Acts under which they were instituted. It seems clear that although the Special Grants Committee is constituted by the Minister of Pensions, it has certain powers and duties attributed to it by statute and a quasi-independent statutory existence.

Before we leave the subject of the Ministry of Pensions a few words should be said about the powers claimed by the Auditor-General and the Treasury in pension matters. The constitutional theory, in relation to Army Pensions at all events, seems to be that Parliament votes money and the Crown, by Royal Warrant, directs how it is to be distributed, appointing his Minister sole administrator and interpreter of his Royal Warrant.

It appears that the Treasury and the Auditor-General have in several cases claimed to over-ride the decisions of the Minister that pensions should be granted. This seems to us illegal. It is a matter of considerable importance, as in constituting themselves a Court of Appeal from the Minister's decision they claim to exercise a power over the Minister of Pensions, who is the King's delegate, that the High Court of Justice has specifically laid down it does not and cannot possess. The position of the Treasury officials is defined by statute and this position should not be enlarged. It is against the spirit of English justice to deprive a man of the Royal Bounty given to him by the Minister by some order made *in camera* by unknown officials without any opportunity to the man

affected of stating his case. The question is worthy of consideration by the highest authority, as one can well understand that in the future a continuance of the practice might lead to unwarrantable interference with the position of the Minister of Pensions as sole administrator and interpreter of the Royal Warrant.

In a Report on National Expenditure[1] it is said: "The Accounting Officer of the Department having questioned a number of cases as not being covered by the Warrant, the Minister applied to the Treasury on 27th December 1917 for their sanction for the action he had taken, but this was withheld. The question arises whether the instruction which was given can fairly be regarded as an 'interpretation' of the terms of Article 1 of the Royal Warrant, interpretation being within the competence of the Minister, or whether it is in contradiction to it, and therefore, *ultra vires*. This is a matter which is proper for the consideration of the Committee on Public Accounts which has dealt with similar questions in former years."

The claim seems to be that a Treasury official may veto the discretion of the Crown in distributing money voted by Parliament for a purpose solely within the purview of the Crown. The use of the phrase *ultra vires* in relation to the Crown in its dealings with the Army seems out of place.

The Committee on Public Accounts repeated the

[1] Second Report, 1918, of Select Committee on National Expenditure, par. 10.

proposition and upheld the claim of the "Accounting Officer of the Ministry and the Comptroller and Auditor-General" to interfere in the Minister's interpretation and administration of the Royal Warrant.[1]

In refusing to pay a pension ordered to be paid by the Minister and disputing his interpretation of the Warrant it seems that the Auditor-General is going beyond his powers. The Exchequer and Audit Department was created by statute "to ascertain first whether the payments which the accounting Department has charged to the grant are supported by vouchers or proofs of payment, and second whether the money expended has been applied to the purpose or purposes for which such grant was intended to provide."[2]

Its functions are accountancy, not adjudication. In the grant of a pension it should call for the Order of the Minister to pay the pension and the voucher of the recipient that he has received it. These being in order, the duties of the Auditor are concluded. There is nothing in any statute giving the Auditor-General or any other accounting official a right to adjudicate upon a claim the evidence of which cannot be before him, and the right to consider and determine which has not been entrusted to him.

He could, of course, if he thinks right, express his opinion that the Minister is not interpreting or ad-

[1] Report from the Committee of Public Accounts, 1918, par. 77.

[2] Sect. 27, 29 & 30 Vict. c. 39, Exchequer and Audit Department Act, 1866.

ministering the Royal Warrant as he would do, and that, in his view, the money expended has been misapplied. Parliament could then ask the Minister for an explanation, and the Minister could then ask the Crown for permission to explain the methods of administration and interpretation that he has adopted. But apparently the Minister's explanation of his pension adminstration is only due to the Crown.

A Public Auditor's duty is merely to report what he thinks is wrong, and unless he is given statutory powers to allow or disallow or surcharge sums ordered to be paid he has no such rights. It is to be hoped that before Parliament gives the Treasury or the Auditor-General power to refuse to pay a pension awarded by the Minister it will consider the question of making pensions a legal right and giving the applicant access to a Court of Justice. That departmental officers whose duties are accountants' duties should arrogate to themselves the right to overrule the award of the King's Minister in awarding War Pensions is a claim to place the Bureaucrat on a throne above the Crown, the Parliament and the High Courts of Justice.

Assuming, therefore, that we have disposed of the claim of the Treasury and the Auditor-General to be Pension Authorities, the position of the Minister of Pensions seems to be this. Acting with the Special Grants Committee which he appoints, he is the sole statutory authority for dealing with War Pensions, and has full unrestricted power of awarding all Army and Navy War Pensions, gratuities and bounties as described in the Order in Council and Royal Warrant.

Until consolidation and amendment of the different Acts from which he derives his powers can give applicants definite legal rights and access to Courts of Justice to uphold them, Parliament will do well to defend his position of autocracy from the interference of outside Departments.

CHAPTER V

THE PENSIONS APPEAL TRIBUNAL

"Do the work that's nearest,
Though its dull at whiles;
Helping, when you meet them,
Lame dogs over stiles."

CHARLES KINGSLEY.

THE institution of this Tribunal was a new experiment, and as, in the future, the question of the right of appeal to an independent Court against the decisions of departmental officials is bound to occupy public attention, a short account of the working of this Tribunal will probably be serviceable.

Throughout 1916, and early in 1917, there were grave complaints of neglect and delay in deciding pension matters; and cases were brought before Parliament where it was not possible to defend the decision given or the delay in obtaining it.

On the 29th March 1917 the Government moved the second reading of their Military Service (Review of Exceptions) Bill. Mr. Hogge, thereupon, moved as an amendment that the House decline to proceed "until the Government is prepared to accept full responsibility

in regard to providing pensions for such men as, having been accepted for service by the Army Medical Authorities, are subsequently discharged from Service owing to disability not caused by their own wilful misconduct."[1]

The argument seemed a very reasonable one. It was urged, and generally agreed, that if a man was passed by the doctors as fit and taken for service and then became unfit for service and was unable to earn his living when he returned to civil life, he was deserving of compensation.

Mr. Bonar Law, who was in charge of the Bill, was himself in agreement with the main principle then under discussion. The Royal Warrant undoubtedly promised pensions to men "discharged as medically unfit for further service, such unfitness being certified as either attributable to or aggravated by military service in consequence of the present war and not being due to the serious negligence or misconduct of the discharged man." The difficulty seemed to be that Army Doctors and Pension Authorities took a narrow view of the meaning of the words "aggravated by military service." It must be remembered that the word "aggravated" had only been introduced into the Warrant in June 1916, and it seems probable that the older generation of Army Medical Authorities had not as yet grown accustomed to giving it due consideration for pension purposes. However this may be, grave complaints were made to the House that cases which

[1] Official Report, House of Commons, 29th March 1917, vol. xcii. col. 643.

were really aggravated by military service were refused pensions, and that the promises of the Warrant were not being performed.

Mr. Bonar Law stated the meaning of the Warrant in clear language when he said: "The position, as I understand it, is this: Any one who has been taken into the Army is entitled to a pension if, on his discharge, it is found either that his ill-health is due to service in the Army or that his previous ill-health has been aggravated by it."[1]

No one could quarrel with this declaration; but unfortunately the evidence was convincing that the position, as stated by Mr. Bonar Law, was not always recognized in pension administration. Nor was the House in a mood to accept mere assurances that the proper principle would be applied by the Pension Officials in the future. There was clearly a public desire for some independent Tribunal to deal with these cases; and, ultimately, Mr. Bonar Law, without absolutely pledging the Government, accepted the situation in these words: "I have," he said, "to consult not only the department concerned, but the Cabinet. But I say, speaking for myself, I think it is a proper case, and I shall see that that case is carefully considered by the Government with a view, if they think there is a real case, of setting up an independent Tribunal, which would do nothing more than this—that in the case of men who may only get a gratuity and nothing more, it will review the decision and come

[1] Official Report, House of Commons, 29th March 1917, vol. xcii. col. 658.

to a final decision whether or not they are to get a gratuity or a pension."[1]

This promise was ultimately fulfilled, and a Tribunal was formed which was a judicial body entirely independent of the Ministry, to which every man who was refused a pension could appeal to have the facts finally decided whether or not his disability was attributable to or aggravated by military service during the present war. The following were appointed to be the Tribunal :

His Honour Judge Parry, President ;
Admiral Sir Wilmot Fawkes, G.C.B., K.C.V.O. ;
Lieut.-General Sir Alfred Codrington, K.C.V.O., C.B. ;
Norman Moore, Esq., M.D. ;
Bilton Pollard, Esq., F.R.C.S. ;
Albert Bellamy, Esq., C.B.E.

A Secretary and Assistant Secretary were appointed by the President, and the whole secretarial work of the Tribunal was carried out by these two officials.

On Saturday, the 14th July 1917, the Tribunal held its first meeting. It appeared that, although in the House of Commons the objective of the Tribunal had been clearly expressed by Mr. Bonar Law, in response to the obvious desire of the House, yet no steps had been taken to make an official declaration of the exact powers and duties of the Tribunal. It seemed undesirable to the members of the Tribunal that they should proceed to their work until they had some

[1] Official Report, House of Commons, 29th March 1917, vol. xcii. col. 710.

definite authority to act upon. Before proceeding to try appeals, therefore, they decided to request the Minister of Pensions to explain to them the authority under which they were to act, and the duties they were expected to perform. It was not clear to the members of the Tribunal whether or not they were appointed under statutory or other authority, and it was thought very necessary that, before they took upon themselves any responsibility, the limits of such responsibility should be clearly defined by some official Terms of Reference.

This request having been put before the Ministry, the Tribunal considered the principles upon which appeals should proceed. They were at the beginning of a new business; and every one agreed that it was essential that they should clearly understand what they were expected to do, so that they could explain to the public how they intended to carry out their duties.

Although no Terms of Reference had yet been received, they understood that the duty of the Tribunal would be to hear appeals from seamen, marines and soldiers whose claims had been rejected, but who considered that they were entitled to pension on the ground that their unfitness was either attributable to, or aggravated by, Military Service during the present war.

Following the practice of the Courts of Justice in this country, the Tribunal decided to sit in public.

As to the right of audience, it was decided that every applicant should have the right to appear. He was to be told that he might bring with him any

member of the Local War Pension Committee or other next friend to assist him in putting forward his case. It was afterwards found in practice that this procedure was largely utilized, and it proved to be of great advantage, not only to the applicant, but to the work of the Tribunal. It was also decided that, if an applicant desired to appear by counsel or solicitor, he could do so on obtaining leave from the President. Although this leave was very rarely requested, it was never refused.

The Ministry of Pensions had already stated that they did not desire to be represented before the Tribunal with a view to opposing appeals against rejection of claims, but, at the same time, they explained that their Representative would attend the hearings and make available all documents and information that would assist the Tribunal in their inquiry. The Ministry also decided that they would acquaint every man with his power of appeal, and that witnesses would not be compellable, though their expenses might be paid. It was agreed that the hearing should be conducted with as little of the appearance of litigation as possible; the evidence was not taken on oath; no shorthand note was made use of, which was a great saving of expense; and the record of each decision was entered in the minute book, a copy being given to the applicant and to the Ministry at the conclusion of the hearing.

On the 25th July the Right Hon. George H. Barnes, Minister of Pensions, signed a Minute containing the Terms of Reference to the Tribunal. After referring

to the Ministry of Pensions Act, 1916, the Royal Warrant of the 29th March 1917, and the Order in Council of the 30th March 1917, and quoting various articles and regulations therein contained, the duties of the Tribunal were thus defined: "The question whether medical unfitness, in the case of Sailors or Soldiers, or the deceased Sailors' or Soldiers' death in the case of Widows, is attributable to, or aggravated by, Military Service, is determined in the first instance for me by my Officers who have before them recommendations of boards of Medical Officers. Against these determinations appeals are made to me.

"I have decided to refer these appeals to a special Tribunal." (Here the names of the Members of the Tribunal are set out.) "The decision of this Tribunal will be final in the foregoing matters. No questions with regard to the amount of award, whether the awards follow on the decisions of the Tribunal or have been made independently of the Tribunal, and no other matters, are referred to them."

It is, of course, open to question whether the appointment of a Tribunal under a Minute signed by a Minister was the best method of carrying out the Government intention of erecting a Tribunal independent of the Ministry: it might also be interesting to lawyers to discuss how far a Minister has power to delegate his duties to a body of independent citizens: the Tribunal, however, did not think themselves bound to consider these academic questions, but accepted the Minute as their Terms of Reference, and proceeded without delay to the trial of Appeals.

By this time the Tribunal had drafted and settled a form of Notice of Appeal for Applicants to sign which had been approved by the Ministry. It was arranged that, when signed, these Notices should be sent, in Navy cases, to Westminster House, and, in Army cases, to the Royal Hospital, Chelsea. The Officials of the Ministry were then to consider whether they should reverse their original decision: if they did so, there was, of course, no necessity for the appeal to proceed. It was agreed that, if within thirty days the Ministry did not allow the appeal, it should then be sent to the Tribunal for hearing.

In view of the responsibility of the Tribunal to every man who had made an appeal, the Tribunal desired that each appeal should be notified to them on the arrival of the notice; and that a further notification should be made of the way in which it was dealt with by the Ministry. Objection was made to this, in the first instance by the Ministerial Officials, who desired only to notify to the Tribunal such appeals as they considered worthy of a hearing. The idea of an independent Tribunal to whom a citizen, aggrieved by the action of an official, was to have a right of access, did not seem to be clearly understood. Nor was this to be wondered at, as it was, of course, an entirely new experience in departmental circles that official decisions should be made the subject of public discussion and revision. In the end the view of the Tribunal, that every notice of Appeal was a notice addressed to the Tribunal and not to the Ministry, prevailed. An independent Tribunal must clearly be notified of all

appeals made to it if it is to possess public confidence; and, after discussion, this principle was agreed to and acted upon. The Secretary was then directed to prepare a card index, and by means of this a complete record of every appeal was constructed showing the date of the appeal, the date on which it was settled by the Ministry or forwarded for hearing to the Tribunal, and the ultimate result of the hearing. This card index, therefore, contains an accurate record of every proceeding that was notified to the Tribunal.

At the beginning, it was not clearly understood, either by Local War Pension Committees or by individuals, that the jurisdiction of the Tribunal was limited, by the Terms of Reference, to the determination of one fact; in consequence of this, a considerable number of appeals were sent in on questions of money and other matters with which the Tribunal had no power to deal. When cases began to be notified to the Tribunal, it appeared that many appeals could not proceed, as the man's Army documents were not with the Ministry. These and other difficulties caused many applicants to write direct to the Tribunal inquiring why their appeals were not proceeding. By means of the complete record provided by the card index, the Secretary was enabled to reply at once explaining to the applicants the exact position of their appeals. This was very valuable in allaying the irritation caused to men who were unable to obtain information as to what was being done with their affairs.

By what means the cases were decided by the

Ministry at first instance we had no knowledge; but, from the fact that a large number of appeals were allowed instead of being sent for hearing, it was evident that the system in the past had been far from satisfactory. This system was subsequently described by the Select Committee on National Expenditure. After pointing out that the Ministry is conducting its work under great difficulties, that the staff is scattered over a number of buildings in different parts of London, and that many of the temporary clerks who are employed have had no training or experience, the Committee thus describe the method of awarding pensions in the first instance:

> "14. The first stage in the awarding of a pension to a soldier discharged on medical grounds on account of wounds or sickness is the report of the Medical Board on whose recommendation he is discharged. They state whether, in their opinion, the disability is due to military service, or has been aggravated by it, and assess the degree of disablement for pension purposes. In order to decide the former point it is necessary to compare the physical condition of the man when he was admitted into the Army with his health on his discharge. But the only evidence the Medical Board have as to his health before entering the Army is the report of the Admission Board; the latter was able to judge it only at the moment of enlistment, it had no knowledge of the previous medical history of the case beyond

what the man himself supplied, and its examination, in great numbers of instances, was notoriously imperfect. In the old Army it could be assumed that recruits were quite sound when enlisted and that, if they were discharged on medical grounds, the disability originated during the period of military service. But with the new Army it is plain that such an assumption cannot be made. Yet the old machinery continues, and the Medical Boards are required to base their awards on their opinion of what had been the physical condition of the man before his admission into the Army, as to which they have no sufficient evidence and are not in a position to make any inquiry. We are of opinion that this system is wrong, and that wherever the question of pre-war health arises, proper inquiry should be made into the man's medical history before any attempt is made to decide whether he is entitled to a pension or not.

"15. When the reports of the Medical Boards come to the Ministry of Pensions, many of them need review; the action of the Boards is not uniform, and in some cases also their decisions do not conform to the general rules laid down. It is necessary, therefore, to divide the reports in the first instance into those which can be accepted at once and acted upon, and those which need further examination. Our Sub-Committee found on investigating the organization of this work, which is conducted at Chelsea Hospital, that the

decision whether the recommendation of a Medical Board would be accepted as it stood or should be referred for further expert inquiry, was left to a staff of temporary women clerks. It is true that their work is reviewed by a branch of the Audit Department of the Ministry, and that only a very small percentage of the papers passed by them are queried; but the Audit Department is also staffed mainly by temporary women clerks. We are not satisfied that it is not necessary for persons with expert knowledge to deal with the cases at this important stage."[1]

On the 14th August 1917 the first appeal was heard: on this day and the next, seven appeals in all were tried: three written decisions were delivered on the 21st August; and, on the 30th August, a further written decision was delivered, and four further cases were heard. Very few appeals were being received as ready for trial; and on the 10th September only 11 cases had been tried. It became evident that there was some difficulty in carrying out the agreement to forward appeals within 30 days of their receipt by the Ministry, and, on the 12th September, the matter was fully discussed by the Tribunal, and the following resolution was passed:

"We note with regret that, out of 576 appeals which have been notified to us as received at Chelsea, only 26 have, so far, been prepared for hearing. We

[1] See Second Report of Session, 1918, from the Select Committee on National Expenditure, 13th March 1918.

therefore record our protest to the Minister of Pensions, in the hope that some better system may be adopted in the transaction of this business. Delay cannot but cause much irritation throughout the country, and the 30 days' limit already appointed for the preparation of papers ought not to be exceeded."

By the end of September, only 34 appeals had been heard; and on the 2nd October the President was invited to meet a Representative of the Ministry to draw up a programme of Procedure from the arrival of the notice of Appeal at Chelsea to the day of hearing.

Ultimately, early in November, an "Appeal Tribunal Section" was formed at Chelsea to deal with appeals; and, from that time appeals began to be forwarded for hearing in sufficient numbers.

The importance of having a large number of appeals promptly prepared for hearing arose from the fact that the applicants resided in different parts of the country: it was therefore necessary to group the cases geographically, and to arrange for hearing them at different convenient centres. Although the Tribunal had power to issue railway warrants to applicants, they felt that it would not be fair to confine their sittings to London. In provincial centres much of the best pension work is done by men and women who are members of the Local War Pensions Committee, who could not possibly travel to London to attend the hearing of separate cases. By holding sittings in the great centres, the Tribunal received most valuable assistance from members of the committees and other

citizens who not only knew the local conditions of life of the district, but had also an intimate acquaintance with the facts of a particular case.

During their existence the Tribunal, in addition to the sittings in London, sat in the following cities: Manchester, Leeds, York, Newcastle - on - Tyne, Edinburgh, Glasgow, Bristol, Cardiff, Dublin and Belfast. The Tribunal were received with the greatest hospitality and kindness by the Municipal Authorities, who provided them with Courts in which to hear the Appeals, put them in touch with the members of the Local War Pensions Committees, and in every way assisted them in the work they had to do. Much interest was taken in the proceedings, which were fully reported and commented upon in the local press. Great satisfaction was everywhere expressed that the Ministry had devised a plan whereby an applicant had personal access to an independent Court which heard his case and decided it on broad principles of law and justice, unimpeded by technical methods of procedure. Moreover, the advantages of publicity which are so highly appreciated by the Ministry were thereby obtained.

In the autumn of 1917, after the first written decisions had been delivered, it became clear that the inquiries upon which the original Ministerial decisions were based were not sufficient for the purpose. The man had not had a personal hearing; the evidence of his former doctor, his former employer, and the records of his insurance society, by which alone his original state of health could be determined, were not before

the Ministry, whose officials had had to decide the cases on statements contained in Army Medical Documents which the decisions of the Tribunal now clearly showed were inadequate.

There could be no doubt that the complaints in Parliament which had led to the appointment of the Tribunal were justified. As soon as the Ministry realized this, they issued a circular to the Local War Pension Committees asking them, when Appeals were made, to make those inquiries into the case which should, of course, be made in the first instance. The Ministry did not invite the Local Committees to give a decision after their inquiry, but merely to record their opinion of the causation of the man's disability. During the last months of the sittings of the Tribunal, the evidence collected by the Committees and their expressed opinions were placed before the Appeal Tribunal, and were of the greatest assistance to them in their deliberations. At the same time, these inquiries do not meet the main objections which are urged against the system under which claims are dealt with. What is really required is that there should be a Court of First Instance to which an applicant can have access when he first makes his claim. This Court should have power to decide his case, and not merely to advise upon it. From that decision there would be a right of appeal. Until there is a Court of First Instance, giving decisions, there can be no real Court of Appeal; in fact, the Pensions Appeal Tribunal was a misnomer; and although they were able, in a few cases, to lay down

general principles, and on occasion to solve difficult problems, yet the bulk of the cases brought before them could easily have been decided at first instance locally and without delay had there been proper machinery for the purpose.

In the spring of 1918, the members of the Tribunal were so much impressed with the inadequacy of the machinery for dealing with claims that a business Committee was formed consisting of the President, Lieut.-General Sir A. Codrington, and Mr. A. Bellamy to consider if they could make any useful suggestions for a better procedure. A report was drafted after careful consideration, and submitted to the whole Tribunal, by whom it was amended, finally approved and forwarded to the Minister of Pensions. Although it may be said that a report of this kind did not form part of the duties of the Tribunal, yet they felt that the suggestions contained in it might be of assistance.

Towards the end of April, it was intimated to the members of the Tribunal that the Ministry intended to make new arrangements beginning in July, and that their services would no longer be required; and on Friday, the 28th June 1918, the Tribunal held its final sitting.

CHAPTER VI

DECISIONS OF THE TRIBUNAL

"He that judges without informing himself to the utmost that he is capable, cannot acquit himself of judging amiss."—LOCKE, *Essay Concerning Human Understanding.*

DURING the existence of the Tribunal, 927 cases were decided. The majority of these involved only personal matters, in which questions of general principle did not arise.

In some of the cases it appeared to the Tribunal that the decision they were giving might be of use in dealing with future cases. On these occasions, a draft decision was written by the President; this was carefully discussed by the Tribunal and amended where necessary, and the ultimate decision of the Tribunal, thus prepared, was then read in open Court. In this chapter we have printed some of those decisions which seem to us of public interest.

In London the cases were heard in a Board Room, at 22 Abingdon Street, Westminster, where there was very little accommodation for the public; and although members of the Press attended to report the proceedings, and the Court was an open one, yet on no occasion

did any member of the public attend who was not personally interested in a case to be tried.

The method of hearing was this: the man and his friends were seated opposite to the Tribunal, and the President invited him to tell his own story in his own way, beginning with his domestic history before he had attested or had been called upon to enter the Army.

There was, as we have said, no shorthand note taken. The members took down notes of any points that had not as yet been brought before the Ministry of Pensions in their consideration of the case. When the man's story got to the point at which he began to describe what had happened to him in the Navy or in the Army, Admiral Fawkes, if it was a Navy case, or General Codrington, if it was an Army case, took up the examination. The men were invited to bring their Insurance books, which they did, and these were examined by Mr. Bellamy, who then brought out in a further examination the man's industrial career before he had entered the service and after he had left it. By this time the Tribunal had acquired some knowledge of the point of view from which the man regarded his own case, a proposition that up to this time had seldom received adequate attention.

The Medical Members then put questions to the man concerning his disability; and the points raised by them often suggested further questions to other members of the Tribunal. The Ministerial representative, who was always present at the hearing of the cases, and had all the official documents before him, asked any questions he desired, to bring before the Tribunal the

considerations which had actuated the Ministry in refusing the man's pension.

If the Select Committee on National Expenditure had thought fit to visit the Tribunal and see its methods of working, they would never have suggested that "there is in fact no one whose special function it is to represent the interest of the public purse."[1] The interest of the public purse was well guarded by the members of the Tribunal and the representative of the Ministry of Pensions, and no useful purpose could be served by instructing a special attorney to appear on behalf of the Treasury unless his function would be to make an effort to keep the strings of the purse closed against just claims. Moreover, if the suggestion of the Select Committee is followed out, and in some future Pensions Appeal Tribunal some such person is to have a *locus standi* to attend and cross-examine the Applicant, and to "appear for the defendant," then it will be only just that the man also should have his attorney to "appear for the plaintiff," and safeguard his rights. In this way the fine conception of the Minister of Pensions, that he is there to carry out the will of the nation and inquire into the merits of each case, and to do justice to it, would be entirely destroyed, and the State would sink to the position of the defendant in a contested action.

At the conclusion of the evidence the Applicant was asked if he desired a medical examination. In all cases he expressed his assent, and the examinations took

[1] Second Report (1918), Select Committee on National Expenditure, par. 16.

place in a private room. These examinations were most careful, and took a very considerable time. When the Medical Members returned and gave their report to the Tribunal, the case was fully considered, and, as a rule, the Ministerial representative was present during the discussion which followed.

At this stage it was often apparent, not only to the Tribunal but to the Ministerial representative, that the true medical aspect of the man's condition had never been fully understood.

We have no doubt that the success of the Tribunal and the welcome it received throughout the country were largely due to the fact that the advice of their Medical Members was of the highest authority.

The Tribunal had before them, as material for their consideration, the documents from which the original decision had been given, the evidence of the man, any letters from former employers or his own doctors that he had produced, and the record of his Insurance book. On many occasions it was thought necessary to adjourn the case for further evidence and, in every case, the Ministerial representative was asked whether he considered it desirable to make further inquiry into the evidence that the man had produced before proceeding to judgment.

When the case was decided, the man was recalled to the Court, and informed of the decision of the Tribunal, which was communicated in writing to him and to the Ministry within twenty-four hours.

The same procedure was adopted when the Tribunal visited other centres. But in the great cities of the

country the Tribunal sat either in the Council Chambers or the Law Courts, and thus the public had greater facilities for attending the sittings, and the interest in the proceedings of the Tribunal was very considerable.

As the Ministry did not desire the Tribunal to make any distinction between cases which were attributable or aggravated, the full words of the Warrant were set out in each formal decision, which was drawn up in duplicate and sent to the Ministry and the Applicant.

The cases reported in this chapter are indicated by the serial number attached to the case by the Tribunal. The head notes attached to each case indicate the subject-matter, and we have added an occasional note at the end of a case where it appeared that further explanation might be necessary. The decisions are arranged in the order of the date of delivery. Except for the elimination of personal details which are not necessary for the purpose of understanding the grounds of the decisions, these are published in the form in which they were delivered in the Court.

CASE NO. 2.—IN THE MATTER OF AN APPLICANT.

Decision of the Tribunal, delivered on Tuesday, 21st August 1917.

Duties and Powers of Tribunal—Army Form B. 179 *—Position of Medical Boards—Tribunal conducting "Enquiry" and not "Litigation"—True meaning of "attributable to or aggravated*

by"—Particular Facts of the Case—Importance of hearing Applicant's personal Statement—Certificates of Doctors and Letters of Employers received by Tribunal—Disability, Rheumatoid Arthritis and Myalgia.

As this is the first decision of Tribunal, we have considered it advisable in the public interests to set down shortly the origin, duties and powers of the Tribunal as we understand them.

The pensions we have to deal with are not matters of legal right, but of favour. From pre-Crimean days they have been based on Royal Warrants, and until 30th March 1917 were granted in accordance with a Royal Warrant, the substance of which dated back to 1834.

Alterations were made in it from time to time, but even under the words of the Warrant of 20th May 1915 no pensions were granted to unfit men whose unfitness was attributable to or aggravated by service conditions. The words "attributable" and "aggravated" are not in this Warrant. Pensions were only granted by the words of the Warrant to men unfit for further service on account of wounds, injuries or blindness caused by Military Service, or disease due directly or wholly to War Service. The phrase "due directly or wholly" was in practice interpreted to include attributable cases.

A Royal Warrant of 11th June 1916 introduced the word "aggravated," and this was followed by Order in Council of 30th March 1917 (Navy), and the Royal Warrant of 29th March 1917 (Army), and these

documents introduced many reforms. The present Warrants of 1917, which we have to interpret, decree that a Soldier, Seaman or Marine "discharged as medically unfit for further service, such unfitness being certified as either attributable to or aggravated by naval or military service in consequence of the present war and not being due to the serious negligence or misconduct of the discharged man," may receive a pension to be assessed according to the terms of the Warrant.

These reforms have, of course, made many men pensionable who have been discharged without pensions, and will in future make new classes of discharged men pensionable. The procedure needed to work this reform will probably require reconsideration.

The old system of pensions was administered by the Royal Patriotic Fund Corporation, and in November 1915 the Naval and Military War Pensions Act, 5 & 6 Geo. V. c. 83, was passed, establishing the Statutory Committee of the Royal Patriotic Fund Corporation with Statutory Local Committees and Sub-District Committees. In December 1916 the Ministry of Pensions Act, 6 & 7 Geo. V. c. 65, was passed, and by Section 3 of that Act the powers and duties of the Statutory Committee of the Naval and Military War Pensions Act, 1915, were put under the control of the Minister of Pensions.[1] On 15th February

[1] The Naval and War Pensions (Transfer of Powers) Act, 1917, 7 & 8 Geo. V. c. 37 (21st August 1917), dissolved the Statutory Committee and transferred its powers and duties to the Ministry of Pensions as from a date to be appointed.

1917 the Minister of Pensions took over the control of the Royal Hospital, Chelsea, and with it the machinery of the Medical Boards who decide whether a man is pensionable.

It is important to remember these dates. The Ministry of Pensions only came into existence in December 1916, it did not take over Chelsea until February 1917, and it brought out the new Royal Warrants at the end of March 1917. Under these Warrants the Minister of Pensions was appointed sole administrator and interpreter, but it is obvious that no one human being could decide the mass of matters that must of necessity come before a Ministry of Pensions, and for the time being, to reduce the delay in granting pensions as much as possible, it was a business necessity for the Minister to accept the existing system of deciding who was or was not entitled to a pension. This system may have worked well in carrying out the limited provisions of the old Warrants, but in relation to the more complicated matters to be dealt with under the new Warrants—especially the decision of facts relating to cases of unfitness being attributable to or aggravated by service—it may turn out that in attempting to decide them by former methods we are trying to put new wine into old bottles.

The old system of deciding whether a man is pensionable does not seem to contain any element of judicial inquiry into facts. It is indeed a wholly medical inquiry. As far as the man is concerned, the decision upon his claim to a pension is really concluded

by the Medical Board. His case or claim to a pension is not really heard at all. It is determined without hearing. This was no doubt not wholly inconvenient when pensions were only given for distinct classes of injuries. Now, however, when questions of attributability and aggravation arise, it does not seem to us in accordance with the principle of English justice that the right of a man to a pension should be determined against him until he has had an opportunity of being heard in support of his case by those who are going to determine it. This, no doubt, was in the mind of the Minister of Pensions when he set up this Tribunal to give a hearing to any one who claimed that his unfitness was attributable to or aggravated by service.

To understand how the position has come about it is necessary to follow the history of Army Form B. 179, which contains the report of the Medical Officer proposing to invalid the man out of the Army and the opinion of the Medical Board on his case. As this Form, with the man's Medical History Sheet A.F.B. 178, constitute the sole foundation for the Minister of Pensions' decision, the former is worthy of the most careful study.

This Form B. 179 in its origin is an Army Form used for the purpose of invaliding a man out of the Army. It dates back to 1895, and although it has been adapted from time to time and adopted for pension purposes, the procedure contained in it was not invented for the purpose of deciding pension cases. It does not contain material upon which this Tribunal would take the responsibility of deciding under the

new Warrants the fact that a man's unfitness is or is not attributable to or aggravated by service.

Army Form B. 179 is "a Medical Report on an Invalid," containing two parts:

1. A statement of the medical case by the Officer in charge of it, countersigned by the Officer in charge of the hospital;
2. An opinion of the Medical Board before whom the invalid appears, who have power to recommend his discharge and to state whether further medical treatment is desirable.

The first point in which this Form seems to us inadequate for the purposes of the Ministry of Pensions acting under the new Warrants is that nowhere is there any direction to the Medical Officer in charge, or the Medical Board, to make any inquiry from the man himself, or to set down his statement of how his unfitness came about. It is a striking fact that the word "unfitness," which is the word in the Royal Warrant, does not occur in Army Form B. 179.

The only possible statement of the man's own view of his case that can reach the Minister of Pensions is contained in paragraph 11, which orders the Medical Officer to "Give concisely the essential facts of the disability, noting entries on the Medical History Sheet bearing on the case." The Medical Officer does not appear in practice to set down the man's own statements in this paragraph, but translates them concisely into his own language, which, indeed, is what he is asked to do. Further, there is this directory note to

the Medical Officer: "The answers to the following questions are to be filled in by the Officer in medical charge of the case. In answering them he will carefully discriminate between the man's unsupported statements and evidence recorded in his military and medical documents." The wording of this note seems unfortunate, as it is often possible that a man's unsupported statement may be correct in fact, whilst the evidence recorded in a military medical document may be inaccurate. For the purpose of granting or refusing a pension the man's statement, whether supported or not, is essential to the inquiry to be undertaken, and its omission from Army Form B. 179 renders the work of the Awarders of the Ministry of Pensions very difficult.

When we come to the second portion of Army Form B. 179, the Medical Board is asked in paragraphs 21 and 22 to state whether—

(1) The disability is clearly attributable to, or

(2) Has the disability been aggravated by

certain specified conditions. The use of the word "disability" and the omission of the word "unfitness" seem undesirable, inasmuch as the word "disablement" has always in pension documents connoted specific injury. The word "clearly" qualifying "attributable" has not the authority of the Royal Warrant.

Two directory notes to the Medical Board should be referred to:

"1. Clear and decisive answers to the following questions are to be carefully filled in by

the Board, as, in the event of the man being invalided, it is essential that the Minister of Pensions should be in possession of the most reliable information to enable him to decide upon the man's claim to pension."

"4. In answering question 21 the Board should be careful to discriminate between disease resulting from military conditions and disease to which the soldier would have been equally liable in civil life."

From the point of view of arriving at the truth of an allegation that unfitness is attributable to or aggravated by certain conditions, we do not think that the filling up of answers to printed questions is the best method of obtaining reliable information. Note 4 seems liable to mislead a Medical Board, as the question of fact to be decided is not whether the disease from which a man is suffering is of a certain character, but whether his present unfitness is attributable to or aggravated by his military service, and this is altogether another matter.

We have set out these views on Army Form B. 179 at some length because we want to make it clear that the Awarders of the Ministry of Pensions, the Advisory Board, and the other medical authorities have been limited to the information it contains. This Tribunal decided to give applicants a re-hearing of their cases as is done on appeals to Quarter Sessions. The result has naturally been that we have had far more

evidence before us on which to base our decisions. It may be worthy of further consideration whether, in so far as a Form is necessary in these cases, one could not be drafted more in the spirit of the new Warrants and the present liberal methods and practice of the Ministry of Pensions in carrying them out.

It must be remembered in reading this decision that the Minister of Pensions has set up this Tribunal to deal solely with one question of fact, namely, whether or no a man's unfitness is attributable to or aggravated by service. We have no other powers whatsoever, and do not deal with questions of amounts or other matters under the Warrants.

What we are saying, therefore, is only relevant to a portion of the enormous work of the Ministry, and deals in a great measure with past practices. Already 14,000 gratuities have been given, and these include over 5000 old cases previously rejected. Moreover, the Ministry interpretation of new cases is far more liberal than it was, and already they have made use of the new Warrant to place 1000 cases previously held to be non-attributable into the attributable class, and these cases have thereby received pensions. The Ministry has to deal with 4000 to 5000 new cases every week, and it is scarcely possible that each Applicant should be seen personally. Nor, indeed, is this necessary. To grant a pension to a man under the Warrant there may be no need to see him. But before a man is refused a pension, which he may or may not be entitled to, it becomes important to consider what is the best method of inquiring into the facts of his case.

It was to rectify mistakes already made, and probably to experiment in new methods, that the Minister of Pensions created this Tribunal. Every assistance has been given to the Tribunal by the Ministry to obtain at the earliest moment specimens of cases dealt with under the old system so that we might begin to hear appeals at once. There seems no doubt that a Tribunal is necessary to assist the Ministry in difficult and doubtful cases.

The Tribunal held their first meeting on 14th July 1917, and were occupied for some days considering questions of procedure. We decided that whenever it was possible an Applicant should be heard in person. A Form of Notice of Appeal was drawn up and circulated to the Local Pensions Committees, and it has been arranged that when these Forms are returned to the Ministry of Pensions the cases shall be considered anew and, if not found pensionable by the Minister, shall come to the Tribunal for hearing. When a case is sent to the Tribunal, the Applicant will receive a Notice of Hearing with a few simple instructions as to what he is to do. The Tribunal decided to sit in open court unless, in any special case, it is considered undesirable. The Minister of Pensions has stated that our decision is to be final.

The Minister of Pensions from the first made it clear that he in no way desired to attend to oppose cases; on the contrary, the part he wished to take in the proceedings was to assist us to obtain any information that would throw light on the facts we are inquiring into. The procedure we have adopted is an

endeavour on our part to carry out the intention that the proceedings before us should have neither the form nor spirit of litigation.

It is clear that there must be some form of inquiry before a pension is granted, otherwise a malingerer or dishonest person might receive a pension. What Parliament seems to have desired when it assented to the use of the words "attributable to or aggravated by" was to ensure that wherever a man, able under the conditions of civil life to work and earn his own living, was taken into the Army, and the result was to cause or bring out or add to the burden of some illness or disease, not due to his own misconduct, so that when the man was returned to civil life he was a broken man or disabled or partially disabled by reason of unfitness to carry on his former civil work, then the Minister of Pensions should grant such man a pension permanent or temporary, and of such amount as the Minister should think just within the terms of the Warrant.

On these principles we have dealt with the cases that have come before us.

The facts in the Applicant's case are as follows:—He had served for nineteen years in the Army, from which he was discharged at his own request in 1907. His character was "very good," and he was stated to be "steady, reliable, willing, sober; recommended as caretaker or groundman."

For two years after leaving the service he was a market gardener, and in February 1909 was appointed caretaker of a Recreation Ground in the service of a Corporation, remaining in this post until he attested on

1st March 1915. He was passed fit for service, and his Medical History Sheet records no defects on enlistment. He served for one year and six weeks, and was discharged on 14th April 1916. Army Form B. 179, which has been the only statement of the case before the Pension Authorities, states that he was disabled by rheumatoid arthritis and debility.

The Medical Officer in charge answers the questions as to date and origin of disability: "1913, in civil life."

Under paragraph 11 the Medical Officer sets out the man's statement thus:

"He states—His hips, knees, and shoulders—especially the left—have been affected for several years, crippling him in the cold months and prevent him working, which consists chiefly of gardening. Within the last twelve months, whilst in the service, he has been compelled to have his teeth extracted, and suffers from dyspepsia, headaches, and much feeling of weakness."

Upon this the Medical Officer stated that the "causation of the disability" was "not in any degree attributable to military service." This view being upheld, the Applicant appeals to the Tribunal.

This case illustrates the danger of deciding a case upon written hearsay instead of an examination *viva voce* of the man himself by some person used to taking evidence. As Blackstone says: "The open examination of witnesses *viva voce* in the presence of all mankind is much more conclusive to the clearing up of truth than the private and secret examinations

taken down in writing before an Officer or his clerk. An artful or careless scribe may make a witness speak what he never meant by dressing up his deposition in his own form and language, but he is here (in open court) at liberty to correct and explain his meaning if misunderstood, which he can never do after a written deposition is once taken."

The Medical Officer in charge is not to be blamed, since Army Form B. 179 does not direct him to take an accurate statement from the man of the facts of his case. A further report, which was made on 27th March 1917, on Form A. 36/C, is much to the same effect.

The Applicant gave evidence before the Tribunal. On his medical examination he was in hospital, his teeth had been removed, and he was ill and had difficulty in speaking. He denied that he told the Medical Officer that he was crippled in 1913. The evidence seems to show that he was not. His story is that he had no rheumatism, as he calls it, before he attested, and that he did his Army work, without suffering from rheumatism, for eight months. He attributes his rheumatism to sleeping on wet bedding at a Battery, and doing night duty on the guns in wet clothing. He was two nights on and one off on this duty for eight months. The Medical Members tell us that the correct term for his disease is osteo-arthritis.

As to his condition before attesting, he states that he is an Oddfellow, but that he has never drawn a penny from them in sick pay, because before enlistment he has not been ill.

He produces a very strong certificate from his doctor, who states that the Applicant is on his panel list, that he has attended members of his family, known him as caretaker of the Recreation Ground since 1910, and that he has never to his knowledge had any illness.

He also produces a certificate from his doctor that he has been under his care suffering from some myalgia during 1916 and 1917, and a letter from the Chairman of the Recreation Committee of the Corporation, stating that "he has not through illness been absent from his duties a single day, and to the best of my knowledge he has always been a strong and healthy man up to the time of his rejoining the Army."

This statement is repeated and confirmed in another letter from the Mayor of the borough.

He was discharged permanently unfit for all services, and is still disabled by unfitness.

The Appeal was allowed.

NOTE. — This decision shows that, prior to the institution of the Appeal Tribunal, a man's case was practically determined on the facts contained in the report of the Medical Board on Army Form B. 179. Although a man may make a statement before a Medical Board, there is nothing in this form directing that his statement should be recorded.

At the time it is filled up he is a soldier under military discipline, and could not well contradict the view expressed by Medical Officers.

Until the Applicant came before the Tribunal, he

had not had a real opportunity of stating his case. In the decision great stress is laid on the importance of the man's own statement. At the same time, the Tribunal made it clear that they would not be bound by the strict rules of evidence.

By the legal rules of evidence, nearly all the papers produced by the Ministry, as well as the doctors' certificates and letters from employers produced by the man, would be classed as hearsay, and therefore inadmissible; and to have enforced such rules would have made the inquiry impossible.

CASE NO. 4.—IN THE MATTER OF AN APPLICANT.

Decision of the Tribunal, delivered on Tuesday, 21st August 1917.

Injury to Foot—Man used to special boots—Aggravation by unsuitable clothing—Metatarsalgia.

The Applicant signed the obligation card on the outbreak of the war, attested on 2nd October 1914, and was discharged on 30th June 1916, after one year and nine months' service.

He was a manufacturing agent in the City and travelled for himself. Many years ago, while playing football in rubber shoes, he caught his toe in the ground, causing dislocation of one of the bones of the metatarsal joint of the right foot. He used to wear a

special boot and suffered no trouble or inconvenience in walking.

After two or three months in the Army he had a fall in the dark when on duty. He went before the doctor, who examined his foot, and he asked for special boots, but did not obtain them. He, however, bought a pair of special boots himself, and carried out his Army duties successfully for some nine months. After that he had to wear Army boots, and he says that they have crippled him. Although he now has boots made specially, he is not yet able to walk as he did formerly and do his travelling.

On 6th May 1916 the Invaliding Board held that his disability was aggravated by military service, but the medical authorities, to whom the case was submitted, decided on 5th October 1916 that it was not aggravated, and assessed incapacity as "nil." A gratuity of £30 was awarded. The Applicant appeals.

The Medical Members of the Tribunal examined the man, and say that his condition is consistent with his story. He has *pes cavus*, and is now probably suffering from a metatarsalgia, from which he may in time recover. Before the man entered the Army he had been perfectly fit for many years. For months, as long as he could have special boots, he was capable of doing work in the Army. When he was not allowed special boots and given Army boots these produced his present condition of unfitness.

The Appeal was allowed.

CASE NO. 7.—IN THE MATTER OF AN APPLICANT.

Decision of the Tribunal, delivered on Tuesday, 21st August 1917.

Man originally unfit for Army—Aggravation by severe conditions—Bronchitis.

The Tribunal understands that this case was not pensionable under the old Warrant, and therefore the entries on the Medical Report could not be expected to contain material for a decision. Supplemented, however, by the man's evidence the case seems clear. The Applicant was in the Army for 145 days. He was a man of over 42, and had formerly worked at an iron foundry. He was employed in a Labour Company of the A.S.C., and worked out of doors at Rouen shifting timber at the dock-side and stacking it. He was under canvas until two days before Christmas 1915, and then in huts. He worked from light to dark, wet or fine. Oilskins were handed out at the end of January, but he says that no one got an oilskin of his own, that they were not allowed to take them back to the huts, and when the work was finished they were stacked in the yard and became wet inside. On 8th February 1916 he was taken ill and went into hospital, where he remained until 14th April 1916, after which he was in a rest camp until his discharge on 2nd July 1916, as no longer physically fit for war service, being disabled by bronchitis. His character says he was "a good labourer."

He produces a doctor's certificate to the effect that he is quite unable to work owing to bronchitis and emphysema of both lungs; his condition is quite hopeless, and he is losing flesh.

The Medical Members of the Tribunal examined the man. In their opinion he was probably unfit for the Army when he attested: he will never be any better, but probably worse, and his Army life hastened the progress of his degenerative change.

The Appeal was allowed.

CASE NO. 1.—IN THE MATTER OF AN APPLICANT.

Decision of the Tribunal, delivered on Thursday, 30th August 1917.

Incorrect statement of disability in Army Form B. 179—Effect of this on Pension Rights—Man capable of Work in Civil Life, broken down by Army conditions — Real disability found by Tribunal to be Asthma and Pneumonia.

The Applicant was aged 40; enlisted 17th August 1915. He was discharged on 10th December 1915, after 116 days' service, with a gratuity of £15. The Applicant appeals.

In Army Form B. 204, under date 15th August 1915 (the application for discharge), the cause of objection is stated:

1. Ankylosis of right thumb.
2. Poor physique.

Across this is written: "Recommended for R.A.M.C. Hospitals at home."

Army Form B. 178, under date 10th December 1915, says he was "considered medically unfit for further military service, K.R. 392, III. cc."

Army Form B. 179, under date 23rd April 1917 (the invaliding report), gives the sole cause of his disability as "Ankylosis of right thumb," but states that he has "had pneumonia since his discharge."

The medical authorities, however, decided that the man's present condition cannot be regarded for pension purposes as due to or aggravated by service, though his capacity for earning a livelihood is diminished 7/10ths. They remark that this decision is given "In view of his service and no special hardship or exposure, and the fact that A.F.B. 204 does not mention the cause of his present incapacity."

If the decision has to be given on the documents before us, it cannot be doubted that the man appears to have been discharged because of a disability to his thumb which was not caused in the Army, and the decision would be in accordance with the facts in the documents.

This case again illustrates the danger of relying wholly upon documents.

The true facts about the man's thumb are beyond doubt. About six years ago he had a bicycle accident in which his right thumb was fractured. He was treated at the London Hospital, and later at King's College

Hospital as an in-patient for two weeks, where a piece of bone was removed. This story he told the doctor who filled up A.F.B. 179, and he has repeated it to us.

On his Medical History Sheet A.F.B. 178, his physical development is marked "Fair." He is said to have no slight defects sufficient to cause rejection. The sheet is marked by some one, "Suitable for R.A.M.C." The applicant tells us that the doctor noticed his thumb, as no doubt he must have done.

It seems clear that the condition of his thumb is the same now as it was when he entered the Army, and it had been in that condition for several years. He was accepted as fit for service with the thumb in its present condition, and he did his work with the thumb in that condition, and in our view of the facts the statement that he was unfit for service by reason of the disability of Ankylosis of the thumb is incorrect.

The man's own statement of the circumstances leading to his discharge are as follows. He states that before August 1915 he was a master decorator and worked himself, and was able to lift weights and do his ordinary work. He had congestion of the lungs four years ago, and the cycle accident some six years ago. He is a member of the Independent Order of Oddfellows, and the Secretary of his branch has sent us the detailed information of his illnesses, showing that his last illness prior to his joining the Army was November 1912, "Influenza, six days," the doctor's certificate of which is produced.

He was therefore an apparently healthy man carry-

ing on the daily work of a decorator without illness from November 1912 to August 1915.

His first work in the Army was repairing and decorating lavatories, which he seems to have done without difficulty. He says he caught two colds at the end of September and got wet through several times, and slept in a draughty place. He says his breathing became bad, and he was excused all physical drills and later on all drills. He was sent to hospital as an Orderly, and there he says he collapsed whilst trying to move a piano, and he was placed in the hospital as a patient, and ultimately invalided out of the Army.

The Hospital Sheet states that he was in hospital from 31st October 1915 to 10th November 1915, for a stiff right hand, the result of a bicycle accident. This can hardly be correct, and in any case it is clear the condition of the thumb was not the real cause of his discharge, and he was never treated for it in the Army Hospital.

Army Form B. 204 certifies that—"He is not likely to become an efficient soldier on medical grounds," but does not state the medical grounds. Inquiries have been made, we understand, at the hospital, but without result, and the only evidence now available of the "medical grounds" are the man's statements, his former history, and his history after discharge.

On his return he says he tried to go on with his business, but was unable to do so. He suffered from asthma, which he had not previously suffered from, and from April 1916 onwards was more or less in the doctor's hands. He was ordered to give up his business

and go to the seaside, and there he had pneumonia. He is now incapable of doing any hard work or work of a continuous nature. This is confirmed by letters and certificates of doctors covering dates from April 1916 to June 1917. Since his discharge from the Army he has been more or less unfit to work.

The Medical Members of the Tribunal examined the Applicant. They consider him a man of poor physique who should not have been accepted for the Army.

The evidence seems to show that the Applicant, though not a strong man, was capable of working at his business under the conditions of civil life, but that he was not strong enough to stand Army conditions. These have led to a breakdown which render him unfit and incapable of work.

The Appeal was allowed.

CASE NO. 8.—IN THE MATTER OF AN APPLICANT.

Decision of the Tribunal, delivered on Friday, 14th September 1917.

Alleged contradictory statements of man in Army documents—Consequent decision that man's disability was congenital—Man's evidence of injury on duty—Man's alleged statement in Army Form B. 179 *really a Medical assumption—Alleged misstatement of man accounted for—Question*

of congenital condition discussed—Man's statement of facts supported by independent testimony.

This case is one of considerable difficulty, both as to its medical aspects and in relation to the facts of the case.

The case had been decided against the man on the following grounds: "A congenital affection as stated by Medical Board, 12th April 1917. See man's statement A.F.B. 179, 10th April 1917, also in A.F.B. 179, 28th February 1916, and on Chelsea Form 54/1, marked A. all different."

It is obvious that if the adjudicating authority believed that the man had given these statements of fact differing from each other as to the cause of his unfitness, it would properly deprive his statements of evidential value.

The adjudicating authority never of course heard the man's own statement.

The man is suffering from extreme wasting of pectoralis major and serratus magnus, and the decision against him is that this is congenital and therefore not attributable to or aggravated by military service.

The man's own story is as follows. He was born in 1893. He was working before the war as a tool-setter. His employers inform us that "he was employed by this Company on and off for a number of years up to August 1914, and that as far as we remember his health was good." He earned 45s. a week, and when not with them he had worked occasionally for other

firms. He was a single man, living with his parents—his father being a discharged soldier and paralysed.

On 5th August 1914 he enlisted, and went to Salisbury Plain, but was returned home in September after he was vaccinated.

He worked with his employers again, and on 29th October he enlisted in another battalion of the same regiment. He did not tell them about his former enlistment, as he was keen to start with other friends who were joining up.

In December 1914 he says he was engaged in moving the Orderly Room with a fatigue party, at Braintree, Essex. They were carrying heavy boxes of rifles, furniture, etc., and whilst so doing he fell downstairs, and caught at the bannisters and wrenched his arm. He did not report it or consider it important. A fortnight afterwards he had a pain in his arm and chest. He saw the doctor and was having massage at a hospital. Inquiry has been made at the hospital as there were no Hospital Sheets, and they replied that there are no records of the case.

From that time onward he was retained in the Army, travelling from place to place, doing no duty, getting some sort of treatment, and gradually deteriorating.

At length in A.F.B. 179, 28th February 1916, the Invaliding Board recommended his discharge as permanently unfit for service.

In the Statement of Case the doctor writes down that the man states the date of origin of disability was "four years ago," and the place "in civil life." He

goes on to say, the man states: "That the loss of power in the left arm occurred as the result of an accident when boxing. His opponent fell, and on endeavouring to pull his arm away from his opponent he strained the chest muscles of his left side."

It is clear that this is the doctor's summary, and not the man's own words. A tool-setter does not speak of "civil life" and "straining the chest muscles of his left side."

The man's account to us of what happened is this. He says he told the doctor that he had no disability before he joined the Army, and that he mentioned the Braintree accident to him, but that the doctor told him that could not be the cause of his present condition, as his trouble was at least of four years' standing, and asked him whether he was an athlete. He told him that he played football and was a boxer. The doctor then asked him if he had ever had a fall, and he described a boxing clinch that had once happened to him, and the doctor in the man's own words "reckoned it must have had something to do with it." From this statement it would appear that what we really have in A.F.B. 179 is the doctor's theory of the cause of the disability and not the man's statement of what he attributed his condition to. As far as the man is capable of forming any judgment about the origin of his disability, he refers it to the Braintree accident, and says he has always done so, but that this doctor told him that he was wrong.

At all events the statement as to disability "four years ago in civil life" is the doctor's inference and is

probably incorrect, inasmuch as the man worked as a tool-setter up to the declaration of the war. It is curious in these medical examinations how seldom we obtain information as to what the man was doing prior to the war. This it seems might have helped the doctor to a right conclusion if he had asked for it.

The man was discharged on 1st May 1916. He tried to work at engineering work, but could not follow it up. He enlisted again in the A.S.C., 3rd August 1916. His Medical History Sheet is marked "old injury to left shoulder as a slight defect." He was sent to Woolwich, but was found to be unfit, and put in hospital. Here he was reported upon by the Medical Officer, on 30th October 1916, who says the patient "puts down the condition of his arm to a fall at Braintree, November 1914." This statement is not referred to in the adjudicating authority's decision.

He came before the Invaliding Board on 10th April 1917, and in A.F.B. 179 of this date the doctor reports the place of origin of disability to be "Braintree, Essex, December 1914."

The result is that in three interviews with three different doctors, two set down his statement as to the accident at Braintree, Essex, in 1914, and his own statement to us is a reasonable explanation of why the third doctor omitted to do so.

The third alleged misstatement by the man referred to by the adjudicating authority occurs in Form 54/1 dated 29th April 1917. The man in his own handwriting states: "Through a fall wild on Fatuge" (*sic*) and in the next line "Southend-on-Sea." The adjudicating

authority seems to have read these lines together. An examination of the Form shows this to be an error. The first sentence is written opposite "8. Cause of Discharge," and "Southend-on-Sea" opposite "9. Place of Discharge." Both facts are accurately stated. General Codrington having heard the man's story says that the use of his words, a "fall whilst on fatigue," would truly describe the Braintree incident, and it is admitted that Southend-on-Sea was the place of discharge.

We may, therefore, write off this alleged misstatement of the man as having little to do with the case, and the Medical Members of the Tribunal, who have examined the man and heard his story, report to us as follows:

The Applicant's left shoulder blade is raised above the level of its fellow: this may be a congenital malformation or a deformity which developed in early life.

The costo-sternal segment of his left pectoralis major muscle and his left serratus magnus muscle are atrophied and the former is almost, if not entirely, absent. The wasting of the muscles just mentioned is so obvious that no one could fail to notice it. The Applicant's disability at the time of his final discharge (3rd May 1917) is attributed to "congenital absence of pectoralis major and serratus magnus muscles on the left side." If this condition is really a congenital one, both the muscular wasting and the disability caused by it must have been just as obvious when the man enlisted as it is now. But no mention of it is

made in the Medical History Sheet at the first enlistment (29th October 1914), and the first reference to the affection is on his Discharge Sheet (1st May 1916) where his disability is attributed to "atrophy of the left pectoralis major and deltoid," and the first reference to a congenital condition is made by the Medical Officer in a Medical Case Sheet, A.F.I. 1237, under date 30th October 1916, which is two months after the man's second enlistment.

After the accident at Braintree in November or December 1914, to which the Applicant attributes his disability, he underwent treatment by massage and electricity for many months, which would have been absurd treatment if the condition of his muscles was the same then as it is now. It is more reasonable to suppose, in the absence of any statement as to the condition of the muscles at that time, that although the nerves had been injured and the muscles paralysed, the muscles were not wasted then in the way they are now. If this view is correct, the condition was not a congenital one.

When the Applicant was discharged after his first period of service (1st May 1916) his disability is stated to be due to "atrophy of left pectoralis major and deltoid muscles." The latter muscle is now well developed: it must have recovered during the 16 months which have elapsed since then. It is not unlikely that this muscle did originally suffer to some extent along with the pectoralis major and serratus magnus, for the nerve fibres supplying all these muscles might quite well have been damaged by an injury to

the shoulder such as this man described as having happened at Braintree. On this theory the deltoid has recovered whilst the serratus magnus and a proportion of the pectoralis major are permanently paralysed and atrophied.

In our opinion the man's statements are quite consistent with the facts as we know them, and we believe his disability is attributable to his war service. But seeing that it is not possible to *disprove* the theory of a congenital malformation, we think the right course to adopt is to disregard surgical opinions on this case, and to decide it on a review of the facts. They are as follows: The man states that he has been an athlete, a boxer, a swimmer and a footballer. He is certainly a very muscular fellow. Owing to the paralysis of his left serratus magnus he is now unable to raise his left arm vertically over his shoulder as is done in diving and swimming, and the reach of his left arm is some 6 or 8 inches less than that of his right, and the force of a punch with his left arm would be much less than with his right. If we can get evidence to corroborate the man's statements regarding his skill as a boxer, a swimmer and a footballer whilst at school, and up to the time of his enlistment in the Army, we think we must find that his present disability has been caused by service in the war.

Now as to his boxing, swimming and football capabilities before the war, we have not only the man's own statement, but the following letter from his schoolmaster:

5th September 1917.

"I can fully bear out any statement made by Mr. —— as to his proficiency in boxing, swimming and football. As a boy he was very successful in all forms of school sport, and he has been equally smart as an adult."

This, with the fact that he was a working tool-setter at the declaration of the war, and was received into the Army twice, namely, on 5th August 1914 and 29th October 1915, and worked in the Army up to November or December of 1915, when the Braintree accident happened, seems to entirely dispose of the theory of the man's present condition being a congenital condition.

The Appeal was allowed.

NOTE.—This case shows the importance of taking down the man's own statement of the facts of his case at the earliest moment, and the possible unreliability of statements contained in the Army invaliding documents when used for the purposes of deciding questions relating to pensions.

CASE NO. 15.—IN THE MATTER OF AN APPLICANT.

Decision of the Tribunal, delivered on Friday, 14th September 1917.

Man accepted for Army with Acromegaly—Aggravation of this Disease by Military Service.

This man was born in 1875. He enlisted originally in 1895 and served 8 years 259 days; 5 years 304

days of which were spent in India. He was discharged in 1904, when he was 29 years of age. At this time he was observed to have acromegaly.

He became a crucible steel melter and worked at ——'s steel works from 1907 to 1914, earning a wage of £2 11s. a week. A letter from the firm shows that he kept good time and was not absent on account of sickness during the seven years he worked for them. They applied for him to return for munition work, but he had then broken down in health and is now unfit for work.

The Army Medical view is that, as he had acromegaly in 1904 when he was discharged unfit and is now unfit because of acromegaly, he is not pensionable.

The Medical Members of this Tribunal have approved the following statement of facts.

He was accepted for service again 4th September 1914, and after 5⅓ months was discharged as unfit on account of acromegaly. He was unfit for service, in view of his then existing acromegaly, 4th September 1914. The exertion of service aggravated the results of his disease and increased the tendency to extreme fatigue caused by it. Exertion to the full extent of a man's powers has been observed as making a patient with acromegaly worse.

The Applicant's disease was not caused by the service, but was aggravated by it, and remembering that he had acromegaly, this is not inconsistent with his being able to do a good deal of work in civil life before his second enlistment.

The Appeal was allowed.

CASE NO. 16.—IN THE MATTER OF AN APPLICANT.

Decision of the Tribunal, delivered on Friday, 14th September 1917.

Effect of short term of Service—Result of Service conditions as compared with Civil life—Asthma, aggravation of.

This man was but a few days in service, yet the conditions under which he served caused his unfitness.

In a letter of 16th July 1917 the Local War Pensions Committee stated his case as follows:

"This man was discharged on the 27th December 1916, suffering from asthma, and was granted a gratuity of £5 under the new Warrant. He served 62 days only. Up to the date of his entry into the service, his Employers inform us that he was able to put in full time, but since the date of his discharge he has only been able to work for one week, when he broke down completely. We have obtained convalescent treatment for him, and he has been under the care of his doctor ever since his discharge. He received no pension whatever upon discharge, but the Statutory Committee, on the evidence submitted by us, made him a temporary allowance of 10s. per week, which, with his insurance, enabled him to live. We have obtained a medical certificate from his doctor, certifying that he is suffering from asthma and abdominal trouble, and is quite unable to work. He is in an extremely serious

state of health, and the only hope there is for him is to have a long period of convalescence on the South Coast, after which it is considered he may be able to take up some light work, such as poultry farming, in that vicinity.

"He needs special treatment and extra nourishment. I may mention that upon receipt of the gratuity his temporary allowance was immediately stopped. My Committee desire me to ask you to reconsider this case and to grant him the highest pension possible, as his case is certainly one which was aggravated by his service. In the opinion of his doctor and ourselves, he would have been able to continue his work if he had remained in civil life, but owing to exposure he is now absolutely broken down."

We have heard the man's evidence and considered the papers in the case, and fully concur with the opinion of the Local Committee expressed at the end of the letter.

The Appeal was allowed.

CASE NO. 140.—IN THE MATTER OF AN APPLICANT.

Decision of the Tribunal, delivered on Wednesday, 14th November 1917.

Effect of Accident on Duty—Partial aggravation on Discharge—Effect of this on present conditions—Complications of already existing Disease.

In this case the Applicant, who was an old soldier, time-expired, voluntarily re-enlisted on 13th April

1916. The Tribunal consider that he deserves the most sympathetic consideration, but feel bound to set out the facts of his case in so far as they affect their decision under their Terms of Reference.

The following statement has the approval of the Medical Members of the Tribunal.

The Applicant broke both bones of his right leg by a fall on ice whilst on military duty at night. The bones have united, but there is a half-inch to three-quarters of an inch shortening. The man now complains of pain and tenderness at the site of the fracture and swelling of the leg after use. The result, however, is not a bad one, and if there was nothing else the matter with him the man would be able to resume his occupation in a few months. Such disability as is due to the fracture is attributable to his military service. The Applicant is also suffering from locomotor ataxy, and some of his symptoms are due to that and are not attributable to his military service.

Subject to the above statement of facts the Appeal was allowed.

CASE NO. 48.—IN THE MATTER OF AN APPLICANT.

Decision of the Tribunal, delivered on Wednesday, 31st October 1917.

Original disability, Loose Cartilage and Chronic Synovitis no longer causing unfitness—Aggravation at time of discharge—Possible recurrence.

The Medical Members of the Tribunal approved the following statement of facts.

The man's disability is stated (A.F.B. 179, 25th May 1916) to be 'loose cartilage,' and his right knee is said to present the physical signs of chronic synovitis.

There are no signs of synovitis now and the joint seems to be quite healthy.

The account given to the Tribunal by the man himself points to recurring dislocation of an interarticular cartilage.

We are of opinion that the patella is more liable to displacement now than it was before the man enlisted. We think, however, that if he is supplied with a suitable apparatus, the dislocation may be prevented and that in twelve months or so the increased liability to it may be overcome.

The facts of the case, moreover, satisfy us that at the time the Appellant was discharged as medically unfit for further service and probably for some period afterwards his unfitness was attributable to or aggravated by military service, and we consider that as our sole duty is to give a decision upon that fact we are bound to decide it in the man's favour. Although he is not at present suffering from any unfitness attributable to or aggravated by service during the present time, our Medical Members say there is a possibility of a future breakdown which might well be held to be attributable to or aggravated by service. In further cases of a similar character we shall propose, with the Minister of Pensions' approval, to add a note to our decisions setting out the position.

The Appeal was allowed.

CASE NO. 153.—IN THE MATTER OF AN APPLICANT.

Decision of the Tribunal, delivered on Wednesday, 14th November 1917.

Disability caused by accidental Infection — Man's statement supported by Hospital Reports — Importance of hearing man's evidence.

In this case it is clear that it would have been impossible to do justice without hearing the Applicant's evidence.

He is a married man with three children and was in the employment of a doctor as driver mechanic before he attested on 21st December 1914.

The Members were impressed by his answers, and the following statement of the facts is approved by the Medical Members of the Tribunal.

The Applicant was in hospital (A.F.B. 178, 3rd April 1915) suffering from gonorrhœal conjunctivitis and panophthalmitis of his right eye, for which evisceration was performed (4th April 1915). The Applicant states that the doctor examined him to see if he had an urethal discharge; there was no discharge, and the Applicant says the doctor remarked, "That's all right." The Applicant further states that he was not treated for urethritis, and this is supported by the absence from the Hospital Reports of any mention of it. If the Applicant had not urethritis himself the gonorrhœal infection which destroyed his right eye came from outside himself and was not due to his own fault.

The Applicant also states that one of the seven men who were fellow-occupants of the same hut had "venereal disease," and it is possible that the infection may have been conveyed by washing materials which were used in common.

The Appeal was allowed.

CASE NO. 114.—IN THE MATTER OF AN APPLICANT.

Decision of the Tribunal, delivered on Friday, 7th December 1917.

Loss of Eyesight due to Syphilis—Evidence of Accident—Effect of Active Service conditions on this Disease — Expert Evidence of Ophthalmic Surgeon.

In this case the decision was not given in writing, as, although the Tribunal were unanimous in their view that the Appeal must succeed, yet the Members of the Tribunal were not entirely in agreement upon the scientific aspects of the case. Part of the evidence in the case was a general statement from Arnold Lawson, Esq., F.R.C.S., who was kind enough to appear before the Tribunal and to explain to them in detail the bearing of this statement on the case of the Applicant.

Although the Medical Members of the Tribunal did not advise us to adopt these views in their entirety, they seem to us of such importance that it is thought

right to include the material portion of them in this record of the Tribunal's proceedings.

Mr. Arnold Lawson, F.R.C.S. (Eng.).—
Called and examined.

The President.—What are your degrees and qualifications?

A. I am a Fellow of the Royal College of Surgeons, England.

Q. You are an ophthalmic surgeon, I think?

A. Yes.

Q. You have been kind enough in the Applicant's case to send us a general statement on the subject of his disease and his disability. Do you agree that it should go on the Shorthand Notes as a general statement, and that will save you going through it again?

A. Yes.

The Statement was handed in, and is as follows:

"12 Harley Street, London, W. 1,
5th November 1917.

"I have been asked to place on record my views on the question of blindness associated with syphilis arising in soldiers and sailors during this war.

"The matter is an extremely important one and somewhat intricate. To be clear, I shall draft my views into a series of numbered paragraphs and then briefly summarize the points I wish to bring forward.

"1. It is urgent to recognize in the first place that

there are two varieties of syphilis—(1) Congenital, *i.e.*, inherited; and (2) acquired. Both classes may equally lead to blindness.

"2. The types of blindness in both are similar. Clinically it is generally possible to differentiate positively from collateral evidence between the two and definitely to assign the origin as either inherited or acquired. On the other hand, it is not always possible to do so; and as the Wassermann blood test reacts equally in the one class as in the other, it may and does sometimes happen that a man is accused of contracting the disease which he has in fact inherited.

"3. Syphilitic affections of the eyes leading to blindness are of two distinct kinds—(*a*) Primarily inflammatory and causing blindness by the results of inflammation; and (*b*) primarily degenerative, *i.e.*, unaccompanied by inflammation.

"The first (*a*) class occur in any stage of inherited syphilis from early childhood to middle life, and in recent or fairly recent acquired syphilis. The second (*b*) class may also occur in any stage of inherited syphilis, but hitherto have been regarded as rare in acquired syphilis until the disease has been of several years' standing.

"4. The inflammatory class (*a*) are usually very amenable to treatment, and will not cause blindness *if taken early and energetically treated*, though the sight may be damaged. The degenerative (*b*) class, on the other hand, are extremely intractable, and nearly always progress in course of time to complete blindness.

"5. The results of the war have been to show—

"(1) That a number of men have lost their sight from inflammatory syphilis.

"(2) That blindness due to degenerative affections (such as optic atrophy) forms a very large class in soldiers and not very infrequently occurs in mere lads in their 'teens' or early 'twenties.'

"6. It is a well-recognized fact that the manifestations of any virus are very much influenced by the power of resistance, *i.e.*, the vitality of the subject, whilst its determination to any one spot or organ may be decided by the special weakening of resisting power in that locality, often due to any prolonged strain or stress on that particular part.

"7. In warfare, and probably in this war more than in any other previous campaigns, the soldiers have been exposed to great hardships and strain, and syphilitic affections have the tendency to be extremely severe in their symptoms and damaging in their consequences.

"Probably the strain of war reacts more decisively on the nervous system than on any other part of the human mechanism. Of that there is abundant evidence in the numerous cases of shell-shock and shattered nerves. The eyes as 'the windows of the brain' and developed originally from the primitive brain, and further the chief means by which the nervous system is kept in touch with external affairs, are very prone to exhibit an extreme sensitiveness as one of the results of

prolonged or severe nerve strain. Of that again there is complete and full evidence. If the soldier is already weakened by syphilis the determination of the virus to the eyes is a contingency extremely likely to occur. The eyes are also especially exposed to adverse weather conditions such as cold and wet, and it is well known that in peace time syphilitic inflammation of the eyes often follows prolonged exposure to such influences.

"*Summary.*

"To summarize the matter. The question of inherited or acquired syphilis ought to be very carefully sifted in every case, and especially as both varieties react 'positively' to the Wassermann blood test. It is obviously grossly unfair to attach any importance to the question of syphilis if the complaint has been inherited. Then the number of soldiers blinded from inflammatory syphilitic affections shows either (*a*) that the inflammatory attacks are of particular severity, or (*b*) that often they do not yield satisfactorily to treatment, or (*c*) a combination of both conditions. Further, the large percentage of blindness, due to degenerative affection of the nervous structure of the eyes, is most striking, as is also the youth of many of the sufferers. All these points come out most strongly, and can be fairly and adequately explained by the conditions of the soldier's life on active service. They point absolutely to the conclusion that a large number of blind syphilitics owe their blindness indirectly to their service on behalf of their country, and that had it not

been for such service very many now hopelessly blinded would be enjoying good sight. Finally, it must be remembered that syphilitic eye affections form in normal times merely a fraction of syphilitic manifestations, and no expert writing on Syphilis would emphasize blindness as a danger more prominent than many others. Yet, as a result of this war the number of blinded syphilitics is appalling, and it can only be explained in the manner I have tried to indicate. I feel most strongly that these points should be clearly set forth for the consideration of all Tribunals who have to deal with the future of these men, and I hope that they will modify in a large degree the very wrong but prevailing opinion that the country has no responsibility for their blindness.

"(Signed) ARNOLD LAWSON,
F.R.C.S. (Eng.)."

Q. Is there anything you would like to add to that general statement before you deal with the Applicant's particular case?

A. Yes, there are one or two points as to which I might claim your attention for about two minutes. That general statement about syphilis is, of course, particularly with regard to the Wassermann test. If you take a positive Wassermann reaction as proving that a man has syphilis, which practically it does do—and it may be accepted with few exceptions—you must logically, I think, accept the position that if a man does not give a Wassermann reaction,

if it is negative, he has not had syphilis, and has not got it. That is an absolutely wrong standpoint, and therefore I say it is not fair to use the Wassermann test in the way it has been done. What I mean is this: in old syphilis—people who are suffering from what is called tertiary syphilis that has been going on for some years—20 to 25 per cent. of the cases will give a negative Wassermann. So that if you are going to exclude from pensions a man who is syphilitic because he gives a Wassermann reaction, you are doing an injustice; that is to say, if 20 to 25 per cent. of the men who have syphilis do not give a Wassermann reaction and you exclude them as having syphilis, you are undoubtedly doing an injustice. If the one position is right the other position must be right too; but it is not.

Q. I follow your point. Is there anything further you wish to say generally, before we come to the Applicant's case?

A. Yes, there are one or two other points.

Q. Will you clear them up first?

A. Yes. Then, again, there is a small class of cases which give a positive Wassermann reaction, which are not syphilitic. They are few in number, and there are not likely to be many cases in which the question will come up; but certainly cases of malaria do give a positive Wassermann, and that point ought to be most carefully sifted. If a man comes home from

the tropics—from Palestine, or Mesopotamia, or Gallipoli, or wherever it is — and gives a positive Wassermann, he should not necessarily be classed as syphilitic. You must exclude malaria for one thing. Then there are other diseases which will give a positive Wassermann, such as yaws, which is a skin disease incidental to the tropics; so that malaria is only one. I only mention them to show that a positive Wassermann ought not to be taken of itself alone as a proof of syphilis. Leprosy happens to be another disease which gives a positive Wassermann, and, as I say, there is malaria and this other disease known as yaws. Then, finally, I wanted to point out that there have been statistics already published by some enterprising man—I cannot give you the reference to-day, but I think I could let you have it—of an examination made for pure curiosity in certain large schools where the children have been examined with regard to syphilis. They were not children who exhibited syphilitic symptoms so that it was known by others that they were syphilitic, but the whole of the children were examined. It has been found that in 1000 cases of ordinary healthy children attending a Board School, from 10 to 15 per cent. of them give a positive Wassermann.

Q. Would those be cases of hereditary syphilis?

A. They were cases of hereditary syphilis who had never exhibited syphilitic symptoms. That is

all I have to say generally; but it only shows that a positive Wassermann should not be taken of itself without great care.

Q. Then we come to the Applicant's case in particular. You know the details of his case?

A. Yes.

Q. He is a man who has been under you?

A. Yes.

Q. Do you remember giving a certificate in his case?

A. Yes, quite well.

Q. Would you read it to us?

A. Yes. This was just a précis of my own notes, which went a great deal more into detail.

Q. This is what you sent to Chelsea, or what got there?

A. Yes. "The Applicant, aged 46. Fell on back of head off timber heap in France on 2nd October 1915 and was not rendered unconscious. Was admitted into hospital there for five days and then sent back to England, arriving at hospital on 9th October. Sight rapidly failed in both eyes. Became completely blind in both eyes in March 1916. Primary optic atrophy, R. and L. Wassermann test positive.

"(Signed) ARNOLD LAWSON, F.R.C.S. (Eng.)."

Q. You know the point that we are here to decide is whether a man's condition of unfitness is attributable to or aggravated by war service?

A. Quite.

Q. That is the question of fact we are called upon to decide. In your view, aye or no, do you

contend from a scientific point of view that the Applicant's condition of unfitness is attributable to or aggravated by war service?

A. Certainly.

Q. You think it is?

A. Yes.

Q. Will you give us your reasons? You can put your points in two ways: either (*a*) assuming there was an injury, or (*b*) assuming there was not. I do not know whether you are satisfied that there was an injury from what you heard, or whether you based your views on it.

A. Assuming that he had an injury, it makes the thing much more simple.

Q. Assuming, in the first place, that he had an injury, what do you say?

A. He gave a very definite history to me. One realizes, of course, that these men are very apt to try to find causes. I looked at him and I did not find any sign of injury; I simply took his statement and accepted it as such. It is very common knowledge that blindness is not at all uncommon after a fall of that description; because your cerebral visual centres are situated at the back of your head, and if a man falls upon his occiput, blindness might follow. I have seen many cases followed by blindness; it is not at all uncommon.

Q. That is, assuming there is injury, that would satisfy you that this particular case was aggravated by war service?

A. Aggravated. In my general statement I make the point that the determination of any virus to any one spot or organ, in the case of syphilis as in other toxins (poisons), was very much decided by the question of the vitality of the part, and if there was any injury to one particular part it was very common to find that part affected by the virus. A man who has syphilis in his blood very often gets syphilitic inflammation of the eyes. I have very often seen cases of syphilitic inflammation of the eyes follow a ride on an omnibus on a windy day; so the fall on the back of his head might well have induced degeneration of the eyes that would lead to blindness. Supposing that his injury cannot be substantiated, the question arises as to whether there was anything in his service which could have aggravated his blindness. I think the dates as they have been given me here in regard to the Applicant's service are striking on that point. The date of his enlistment was the 2nd September 1915. When he was enlisted presumably one might say that he had decent sight, and it was so good that he was sufficiently good for military service. He was taken ill on the 4th October 1915, which was only four weeks, and he was discharged as completely blind six months later. Now to me those dates are very suggestive. If he was perfectly well on the 2nd September 1915, one cannot understand how it was he had to be certified as ill on account of

his sight only four weeks later, unless there was some very strong pre-determining cause. Then if he was discharged from the Army on account of the failure of his sight only six months later, which it was, the loss of sight was extremely rapid. It has affected both eyes as it commonly does. But generally it affects one eye quicker than the other; while he was so bad in both eyes that he had to be discharged from the Army six months after it came on. There are two striking points about it. The first striking point is the rapidity with which it came on after his enlistment, and the second striking point is the rapidity with which it progressed to extreme blindness. In this case the most important point is the second one. In these cases of primary optic atrophy where there was no previous inflammation, but pure degeneration, it would take time. This was a case of pure degeneration and there was no sign of previous inflammation. The average time from the first symptom to complete blindness runs to a matter of two to three years and sometimes may go on from four to five years. In this case he was totally blind in six months.

Q. Does that point, in your view, to the fact that he had had an injury?

A. I think it supports it, but it also goes in support of the general statement I put in, that these cases in the war are very severe, and they progress very rapidly; and that is the out-

standing feature in nearly all these syphilitic cases.

Q. Then you are satisfied, are you, that from your view as a scientist, this man's case was aggravated by his service?

A. Yes, certainly.

Q. And you have no doubt about it?

A. No, I have not.

CASE NO. 26.—IN THE MATTER OF AN APPLICANT.

Decision of the Tribunal, delivered on Friday, 4th January 1918.

Sarcoma—No evidence of actual Injury—Case held not attributable.

In this case the man was a baker's journeyman, and on 14th May 1916 he joined as a gunner in the R.F.A. He had no trouble with his leg before enlisting, and he did eight months' training and riding. He does not complain of any actual injury, and does not remember any actual knock or blow.

He first felt pain in November 1916 whilst walking upstairs. He thought nothing of it. Later on, in about a month, he noticed a slight swelling. He rubbed it with embrocation, and in February he reported sick. The M.O. said it was serious, and he was sent to hospital.

Ultimately it was discovered that he was suffering

from sarcoma, and he was operated on, on 4th September 1917, his leg being removed.

The Medical Members of the Tribunal are of opinion that the sarcoma in the Applicant's case was not due to injury. The origin of sarcoma is obscure, and in the present state of knowledge we can only say that its origin is not related to accident or injury.

The Appeal was disallowed.

CASE NO. 297.—IN THE MATTER OF AN APPLICANT.

Decision of the Tribunal, delivered on Friday, 11th January 1918.

Epilepsy—Effect on Disease of change from Civil to Military Life—Fits increased—Aggravation.

In this case the Medical Members reported to the Tribunal as follows:

"There is no doubt that the Applicant has epilepsy, because we saw him in what was a slight but still a perfectly typical epileptic fit here, so we know that he has epilepsy. His mother mentioned that about 1915 he had slight seizures of an epileptic character, and then there came an interval when he had a few or none; and then there came a period of service in which the number was increased.

"Epilepsy is a disease which very often lasts for the whole lifetime of the patient without killing him. It goes on as long as he goes on. Sometimes the patient

has long intervals in which he has no fits, and then has more fits; but no single rule can be laid down on the subject, and each case must be carefully observed in itself.

"There can be no doubt that mental stress such as is produced by a new state of life, such as the change from civil to military life, from a position of no responsibility to a position of considerable responsibility, like that of a soldier, does in many cases tend to aggravate epilepsy and make fits more numerous if not also more violent.

"The epilepsy which the patient had before was aggravated by the incidence of his military service."

The Appeal was allowed.

CASE NO. 319.—IN THE MATTER OF AN APPLICANT.

Decision of the Tribunal, delivered on Tuesday, 15th January 1918.

Chronic Nervous Disease aggravated by Service conditions—Condition of Syphilis not to be inferred in absence of recognized tests or other satisfactory evidence.

In this case the facts set out in the papers were supplemented by letters from the man's doctor, the vicar of his parish, and others who knew him as to his character and his condition before enlistment.

The Medical Members of the Tribunal had the opportunity, not only of examining the man, but of

having an interview with his wife, who also gave evidence before the Tribunal.

It did not appear that at any time the Wassermann test was made; and no record of any was produced.

The Medical Members of the Tribunal gave us their opinion as follows:

"The Appellant has widespread muscular tremors, scanning speech, exaggerated knee jerks, some ankle clonus, and pupils showing a diminished reaction to light. His mental condition is one of depression, but he has no delusions. At times, he appeared to remember the answers to questions with difficulty; but, after an effort, recalled all the incidents of his life about which he was asked. His gait was feeble, but not ataxic. He states that he has at times some difficulty in controlling his bladder and bowel. He attributes these symptoms, so far as he has observed them, to a fall with a ladder on which he was standing on 23rd December 1914. There is some evidence that such a fall took place.

"His wife has borne to him nine children, of whom six are living, while two have died of heart disease at 17 years 5 months, and 21 years, and one of pneumonia at 1 year. His wife has had no still-births and no miscarriages.

"The Appellant's symptoms would suggest that his disease may be one of the varieties of general paralysis of the insane, if there were conclusive evidence of syphilis; but this is not presented. He denies having had syphilis, and no Wassermann reaction is recorded: while the evidence given by his wife (which is not

mentioned in the papers before us) also tends in a contrary direction.

"Syphilis ought not to be adopted as a description of his disease till its existence in his medical history has been proved.

"It has generally been recognized from the experience of the present war, and from some previous experience, that chronic nervous diseases have often been aggravated by military service. We are of opinion that such aggravation has taken place in the case of the Applicant.

"In the absence of full evidence, it might be allowable to suggest that his disease is a variety of widespread sclerosis of the nervous system not due to syphilis."

The Appeal was allowed.

CASE No. 311.—IN THE MATTER OF AN APPLICANT.

Decision of the Tribunal, delivered on 19th January 1918.

Accident by explosion—Military Inquiry in Man's absence not evidence against him—No decision of his misconduct by Ministry—Question of attributability considered on evidence produced.

In this case the man attested on 8th May 1915 and served until 19th September 1917, when he was discharged as medically unfit with very severe injuries which necessitated, among other things, the amputation of the left leg above the knee. His military character

states: "He is a steady, sober, hard-working man who has performed his duties as a soldier in a satisfactory manner." He tells us that he was knocked unconscious by an explosion somewhere near Arras when he was washing dixies. That is the only account he gives of the accident.

An inquiry appears to have been held on the same day as the accident, at which the man was not present, and therefore the statements in it could not be fairly used against him. But in any case these statements only refer to the question whether the accident is due to the serious negligence or misconduct of the discharged man. Inquiry was made whether any representative of the Ministry had given any decision one way or the other on the question of negligence or misconduct, and the Tribunal was informed that as far as was known no such decision had been given. Although there is no written decision of any kind we must assume that, the Appeal having been sent to us, some one has decided that the man's unfitness is not attributable to military service. The Tribunal is unanimously of opinion on the evidence before it that the accident is directly attributable to military service. The Tribunal has not considered, does not decide and expresses no opinion on the question of misconduct or negligence, as the question has been specifically withheld from their jurisdiction.

NOTE.—This case illustrates the inconvenience of the limited jurisdiction of the Appeal Tribunal. The Tribunal could only decide whether the disability was attributable to, or aggravated by, military service or

not. It was not permitted to consider any questions of negligence or misconduct. In the Applicant's case, an inquiry had been held in the Army on the 13th July 1916, in which it had been held that the Applicant's injuries were "self-inflicted through negligence." He was not present at this inquiry, and had no opportunity of hearing or cross-examining the witnesses. The Ministry did not find against him that he had been guilty of negligence or misconduct. Obviously they could not act upon the result of an inquiry held in the man's absence.

In par. 666, King's Regulations, 1912, it is stated that "When the inquiry affects the character or military reputation of an Officer or Soldier, full opportunity must be afforded to the Officer or Soldier of being present throughout the inquiry." This is in accordance with the ordinary principles of justice.

The Ministry could of course have ordered a further and better inquiry, but had not done so. Unless the Ministry proved in the terms of the Royal Warrant that the man's unfitness "was due to (his) serious negligence or misconduct," they were bound to give him a pension.

CASE No. 340.—IN THE MATTER OF AN APPLICANT.

Decision of the Tribunal, delivered on Friday, 18th January 1918.

Disability, Ataxia aggravated by Service conditions—Remote Venereal origin of disability not sufficient to exclude possibility of aggravation.

This man joined the service on 14th December 1892. He served continuously until 21st September 1904,

when he was discharged upon completion of his engagement. He was enrolled in the Royal Fleet Reserve on 22nd September 1904, and called up on 2nd August 1914. He was discharged on 13th October 1915 as unfit, owing to locomotor ataxia. From 1904 to 1914 he was examined each year and found fit. All this time he was working on a Shipping Line and in good health. He served as a stoker petty officer and underwent considerable hardship incident to active naval service.

Our Medical Members say that it is clear that the man has locomotor ataxia. The modern view is that all ataxia is of syphilitic origin. He appears to have had a Wassermann test at Chatham. It is not produced, and he does not know the result. He and his wife have had eight children, four of whom died, but there is no history of still-born children. The man probably had the spirochæte in his system, and the last period of service may have aggravated his condition. It is an established fact that ataxia may be aggravated by the exposure of an Alpine expedition. Admiral Fawkes tells us that in the man's service, as described by him, he was undoubtedly exposed to excessive hardships, particularly when he was on the coaling ship and they were coaling destroyers. He would have to come from a warm stokehole on to the deck, and have to sleep under damp conditions.

The remote origin of his disability is venereal, but that is not sufficient to exclude the possibility of aggravation.

The Appeal was allowed.

CASE NO. 343.—IN THE MATTER OF AN APPLICANT.

Decision of the Tribunal, delivered on Friday, 18th January 1918.

Allegation of Fraudulent Claim not proved—Real Disability discovered on Appeal—Appeal allowed on real Disability.

In this case the man served 247 days, and was invalided out for defective vision owing to severe choroiditis. A ruling had been given that the man's claim was fraudulent because he alleged that the condition arose from tetanus. The Tribunal decides that the choroiditis was not attributable to or aggravated by service, but they do not consider that the claim is fraudulent; on the contrary, they think it very reasonable that an ignorant man having suffered from such a serious disease as tetanus would readily and reasonably come to the conclusion that his present condition was due to the disease he suffered from.

The matter does not stop here because the man is undoubtedly suffering from a disability which was directly attributable to war service, and which in our opinion the medical authorities at Chelsea should have decided is directly attributable to military service. It appears that on 11th March 1915 he fell downstairs and fractured his thumb. An inquiry was held into the matter, and it was decided that it was a serious injury likely to affect efficiency, and that the soldier upon parade was not to blame. It is clear that he now

has a stiff thumb, and is to that extent permanently disabled. If it is likely to affect his efficiency in the Army it seems reasonable to suppose that it also affects his efficiency in civil life. The Tribunal therefore holds that in the matter of the thumb there is a real disability directly attributable to his military service, and that in relation to that he is entitled to consideration under the Royal Warrant.

The Appeal was allowed.

CASE NO. 347.—IN THE MATTER OF AN APPLICANT.

Decision of the Tribunal, delivered on Friday, 25th January 1918.

Mercantile Ratings not within jurisdiction of Tribunal —Effect of the Injuries in War (Compensation) Act, 1914—Suggestions for dealing with such cases.

This man applied to us in Manchester in October last for advice, and was given an appeal form. He filled this in and sent it to Westminster House. It is admitted that it was a naval appeal, and should as such have been notified to the Tribunal. On 22nd November 1917 it was first notified to the Tribunal as "man is appealing for a special Campaign Pension and case is in hand at Chelsea."

No communication was made to the Applicant as to what had been done in his case.

In January, on our second visit to Manchester, the Applicant again asked our assistance. It seemed clear

that if he was a seaman he was entitled to an appeal under the Order in Council.

On 18th January 1918 we heard his evidence. He states that he joined H.M.S. *C*—— at Hull as a fireman in October 1914 at £7 10s. a month. He was on active service. At the end of four months he left the service, having signed on for that time. He complains that the wet coming into his berth gave him bronchitis. When he left the ship he had to go to hospital, and has never been to sea since, although before the war he was actively engaged in mercantile service. If his story is true, and he were a seaman within the terms of the Order in Council, there seems every reason to believe that we should decide that his disability was attributable to or aggravated by naval service during the present war.

On 24th January 1918 his case was further considered in London, when a Ministerial representative attended the Tribunal and said that the case did not come within the jurisdiction of the Tribunal for the following reasons: The Applicant was a "mercantile rating," and entered the service under a special form of agreement as a mercantile seaman at mercantile rates of pay. He was probably entitled under the Injuries in War (Compensation) Act, 1914, to pension or allowance. Section 1 of this Act states that an Order in Council may be framed to carry out a scheme for this purpose, and we understand from the Ministerial representative that the man's right course is to apply to the Admiralty. Under these circumstances it seems clear to us, and we unanimously decide that the

Applicant's case does not come within our terms of reference. The case, however, is one where a man who has fought for his country has been disabled; and we suggest that the following matters should be further considered:

1. Whether a man who makes a mistaken claim to the wrong department should not be informed which is the right department.
2. Whether it cannot be arranged that men having claim to pension under the Injuries in War (Compensation) Act, 1914, could have access to Local Pension Committees and this Tribunal.
3. Whether there are any other similar authorities having pension jurisdiction, and whether this Tribunal and the Local Pension Committees could be informed of these, so as to direct applicants to the proper authority to consider their claims.

NOTE.—We understand that these suggestions have been taken into consideration.

CASE NO. 415.—IN THE MATTER OF AN APPLICANT.

Decision of the Tribunal, delivered on Friday, 8th February 1918.

Serious Disease attributable to short Service.

The Applicant joined the Militia in 1908. He was in training when war was declared, having been called

out on 13th July 1914, when he was medically examined. He trained at Y—— and marched to A——, and on the date of mobilization it seems clear that he was in good health. The Medical Members of the Tribunal report to us that at the present time the Applicant has valvular disease of the heart affecting both the aortic and the mitral valves.

About a week after the war began he spent, during military exercises, a wet night in a field. He got thoroughly wet. Two days later, or thereabouts, he had severe rheumatic pains and was sent to the Military Hospital. He was not detained there and was discharged. He has since had similar pains from time to time. This illness was an attack of rheumatic fever; the valvular disease probably originated in it.

He has no chronic arthritic changes.

The Appeal was allowed.

CASE NO. 500.—IN THE MATTER OF AN APPLICANT.

Decision of the Tribunal, delivered on Friday, 1st March 1918.

Allegation of Malingering made on Army Form B 178—Probable adverse effect on Man's treatment—Absence of Medical History Sheets—Importance of Early Investigation—Real Facts of Case recorded—Medical condition of Applicant—Exophthalmic Goitre group—Rheumatic Fever—Disability caused during short Service.

This man attested on 12th December 1915. He was not then medically examined. He was mobilized

on 8th April 1916. The recruiting Medical Officer evidently formed a bad opinion of the man.

In the column where this official is directed to set out "Marks indicating congenital peculiarities or previous disease" he set down the following statements: "Malingering; swore he couldn't read 6/60 but under pressure read 6/6; complains of pain in right leg, but nothing can be found to account for it."

This original statement in A.F.B. 178, of which the man would have no knowledge, and which accompanies his Army papers for all time, may have had an adverse effect on his ultimate treatment.

He was passed Class 1 and joined his regiment. The next military document is a note by a Lieutenant of the R.A.M.C. of 12th April 1916, as follows: "*Re* Pte. ——. I marked him 'E' yesterday before I obtained class in which he had been recruited to; I must reclassify him to 'A,' and in the event of inability to perform duties I would bring him before the Inspector of Recruits. At the recruiting office he was considered a malingerer."

If this Officer had followed his own opinion and had had the power to have returned the man to civil life at this stage, there seems every probability that no question of pension would have arisen.

Although no Hospital Sheets are available there seems no reason to doubt that on 19th April 1916 he was admitted to hospital. The next Army document is A.F.B. 204, dated 28th April 1916, signed by a Lieut.-Col. R.A.M.C. (T.), and confirmed by the Lieut.-Col. of the Battalion. This document

contains the following statements about the man's condition:

"1. Recurrent attacks of general rheumatism with wasting of left leg.

"2. General debility.

"3. Is unfit for military service.

"4. Disability was not caused by military service."

The man had been under observation in hospital since 19th April 1916, and it is important that no suggestion is now made that he is a malingerer. He is reported to have been discharged from hospital, 10th June 1916, to his home, pending discharge from the service.

He was discharged from the service on 17th June 1916.

His military character is good.

Early in 1917 he appears to have tried to bring his case before the Ministry of Pensions and was ordered to attend a Medical Board. An Hon. Sec. S.S.F.A. interested herself in the case, and on 27th March 1917 writes to the Ministry about his attendance at the Medical Board, and states that he "is quite unable to walk the distance from the station to the Board's Office."

On 30th March 1917 he attended the Medical Board, who reported on A.F.B. 179 that he was under no disability and not incapacitated, or at all events they did not fill up the spaces in the form referring to these matters, and their silence has been so interpreted in the précis before us.

It is regrettable that the Medical Board did not

seek to obtain the original Hospital Records which at that date may have been available. Although A.F.B. 179 states no disability it also states that the origin of the disability was "from childhood" and "in civil life." Upon these documents it has been decided that the man is not pensionable, and from that decision he appeals.

On 13th October 1917 the Applicant filled in his appeal form, and on 29th December 1917 the appeal was notified to the Tribunal as ready for hearing.

The real story of the case seems to be as follows: The Applicant was born in 1890 and has worked at a Spinning Company for the last eleven years. He was married in 1911 and has one child, born in 1912. Up to 12th December 1915, when he attested, he was in full work as a blanket material blender, regular in attendance, and had good health, and bore a good character.

This is borne out by his own statement, and is corroborated by a letter from the Spinning Company, a statement by the Hon. Sec. of the S.S.F.A., and the production of his Insurance book.

It is officially reported by his C.O. under date 3rd March 1917 that he was in hospital at —— from 19th April 1916 to 10th June 1916, and the man states that he was returned home in an ambulance. The Local War Pensions Committee seems to have assisted him from time to time, and there is evidence of his doctor and his employer that he is not fit for the work he could do formerly.

The Medical Members of the Tribunal who

examined him state that he is an example of the exophthalmic goitre group, of which we have seen several cases. He has very rapid, irregular action of the heart and probably some affection of the mitral and aortic valves. There are tremors of the hands. His eyelids do not follow his eyeballs. He seems to have had rheumatic fever whilst in the Army. His whole condition would be aggravated by service, and the rheumatic fever seems to have been acquired in service.

With regard to the suggestion that he was a malingerer the Medical Members were satisfied that he was not. They explained that to this type of man, nervous, shy, and of poor education, the eye test of reading letters on a screen which he described to us would be a matter of some difficulty. The Tribunal were impressed by the fact that the man made no endeavour to exaggerate his case or complain of unusual hardships.

The decision has been written at length for the following reasons:

1. It seems fair to the man that we should state that in our opinion there is no truth in the suggestion that he is or has been malingering.
2. The case is typical of many cases which have never been investigated at first instance and which we understand will in future be investigated and reported upon by Local Committees before they come to the Appeal Tribunal, and illustrates the importance of such investigation being made at the earliest moment.

3. Attention should be drawn to the advisability of applying for the Hospital Records directly the case is put forward. If these records had been asked for in February 1917 when the case was first before the Ministry they might have been available.
4. An idea seems to be prevalent that the mere fact that a man breaks down in health after a short service disqualifies him for a pension. As the Medical Members explained to us, if a man got rheumatic fever by one day's service his heart might be seriously damaged for life. Each case must be dealt with on its merits, but the mere fact of service being short is irrelevant if the medical and other evidence clearly points to the man's condition being aggravated by service. To save unnecessary appeals, this point should be made clear to the Local Pensions Committees.

The Appeal was allowed.

CASE NO. 736.—IN THE MATTER OF AN APPLICANT.

Doubt—benefit of.

The special facts of this case necessitated a long and detailed discussion of the effect of the evidence, which is not of public interest. The following passage explaining the principle upon which the appeal was allowed is quoted from the decision of the Tribunal:

"The Pension Minister, as sole interpreter of the

Warrant, has expressed the opinion in which we have always concurred, that, where there is a real doubt, the benefit should be given in favour of the man, and this principle was expressly approved by the Select Committee on National Expenditure, Second Report, 1918, par. 8."

NOTE. — The actual ruling of the Minister of Pensions on this subject as stated on 20th February 1918 is in these words: "Where a man is discharged in consequence of medical unfitness for further service it shall be presumed that the cause of his unfitness was due to service unless (*a*) there is good evidence to the contrary, or (*b*) that such unfitness was due to his own serious negligence or misconduct."[1]

The Tribunal constantly applied this ruling, which is in every way consonant with the established principles of English justice. There is no doubt that if it was better understood and universally followed by the various adjudicating authorities in War Pensions matters greater satisfaction would be given to applicants, and a large number of appeals would be unnecessary.

[1] Select Committee on National Expenditure, Second Report, 1918, pars. 8 and 9.

CHAPTER VII

THE AMERICAN PENSION SYSTEM

"We have seen the alacrity with which the American-born populace, the peaceablest and most good-natured race in the world, and the most personally independent and intelligent, and the least fitted to submit to the irksomeness and exasperation of regimental discipline, sprang, at the first tap of the drum, to arms, not for gain, nor even glory, nor to repel invasion—but for an emblem, a mere abstraction—for the life, the safety of the flag."—WALT WHITMAN, *Democratic Vistas*.

HISTORY repeats itself, and once again America is playing her part, this time side by side with ourselves in the world drama. In every department of life we are striving to set aside our national exclusiveness and beginning to take notice of the way in which our American cousins manage affairs, in the sensible hope that we may be the learners and gainers. America has had a hundred years' experience of pension administration, and it would be a very stiff-necked departmentalist who, having the charge of our own system, would not look round to see what had been going on in the same business in the United States.

The American War ideal tallies with our own ideal and is expressed once for all in Abraham Lincoln's memorable words: "With malice towards none; with charity for all; with firmness in the right, as God gives

us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds; to care for him who shall have borne the battle and for his widow and his orphan—to do all which may achieve and cherish a just and lasting peace among ourselves, and with all nations."[1] It is a supreme truth that care of the disabled and the widows and orphans of the War is a sacred trust and duty, and upon that all are agreed.

The intentions and ideals of all nations during war in relation to pensions are probably very similar; it is when we come to deal with the machinery for translating them into the facts of life that we recognize the difficulties to be overcome. On the threshold of enormous schemes for spending money, which we desire should be carried out wisely, generously and justly, we have the privilege of studying similar efforts of a democracy of our own race.

The United States Pension system commences with a resolution of Congress dated 26th August 1776, by which the Continental Congress undertook to provide for disabled soldiers of the Revolution.[2] The first general Pension Law for the benefit of the soldiers of the Revolutionary War was enacted in 1818, thirty-five years after the declaration of peace with Great Britain. It was restricted to men who could show nine months' service and who were in indigent circumstances. It is curious how, in nearly every pension system we have

[1] "Second Inaugural Address," 4th March 1865, *Works of Abraham Lincoln*, vol. ii. p. 656.

[2] *Encyclopædia Americana*, vol. iv. p. 167.

studied, there appears within a few years of its institution an economical reaction against carrying out its promises. In 1820, "only two years later, Congress repented of its liberality, and the number of applications for pensions having reached the enormous total of 8000, that body passed what was known as the 'Alarm Act,' under which pensioners were dropped, and the applications of others rejected."[1]

It would not be possible to set down in detail the various general and special enactments relating to pensions and gratuities and the grants of bounty land which have been administered from time to time by the American Pension Authorities before the passing of the Dependent Pension Law[2] in 1890, which based war pensions not only on invaliding but on a service of ninety days and present inability to earn a support by manual labour, and provided for pensions for widows, children and dependants. The United States had nothing akin to our Civil List and did not recognize long service as a ground for pension. Generally speaking, their pensions are purely War Pensions granted only for active service in times of war and the beneficiaries are survivors or their widows and children. These War Pensions, or invalid pensions, are given, as with ourselves, for total or partial disablement from wounds or disease contracted in the military or naval service, and to widows, children and dependants in certain cases. In 1902 there were 372,268 pensioners

[1] S. N. Clark, "Some Weak Places in our Pension System," *The Forum*, November 1890, vol. xxvi. p. 306.

[2] Fifty-first Congress, Session I. c. 634.

on the roll on account of service in the Civil War, and, under the Act of 1890, 597,319 pensioners.[1]

When we read these figures it should bring home to us the importance of building our own pension system on sure foundations, and our rulers and governors should not grudge a little clear-thinking and applied foresight to pension matters. The two last surviving revolutionary soldiers who were allowed pensions under the general laws were William Hutchings of Hancock, Co. Me., who died 3rd May 1866, aged 102 years, and Samuel Denring of Saratoga, Co. N.Y., who died 18th February 1867, aged 101 years. On 30th June 1888 there were still 37 widows of soldiers of the Revolutionary War drawing pensions. Assuming that our children and grandchildren honour our promises to our men in the same way as the citizens of the United States did to the soldiers of the Revolution, we must look forward to a Pension Ministry in the year of our Lord 2000, administering Pension Laws which we enact to-day. It is a responsibility which should make for the exercise of clarity and common sense by the authorities of the present day.

In the early days of pensions they were undoubtedly regarded as matters of legal right. Thus, in 1825, an opinion of an Attorney-General is quoted that a pension "is a vested right."[2] The Secretary of the Interior laid down the law in these terms: "The Invalid Pension Acts promising a pension for future

[1] Chambers's *Encyclopædia*, 1904, vol. viii. p. 35.

[2] Harmon, *A Manual of the Pension Laws of the United States of America*, Washington, 1867, p. 182.

service amount to a contract on the part of the Government and vest an absolute right in the party whenever the disability shall occur. If therefore he has completed his proof and thus become entitled but dies before the certificate issues, his representatives may claim arrears."[1]

In later years, however, Secretaries of the Interior are said to have held the view that a pension is a gratuity and not part of a contract for services rendered.[2] If it were held to be a contract Congress could not by legislation terminate a right existing under former pension laws, but the question does not, as far as we have been able to discover, seem to have come before the United States Supreme Court, the reason being, no doubt, that whatever the true legal aspect of the case may be, the United States Pension Authorities have never sought to escape from any liability imposed upon them by the pension legislation of former generations.

As early as 1849 the United States possessed a unified administration in the shape of a Pension Office, which in that year became a Bureau of the then newly-created Department of the Interior, and the pension administration to-day is governed by this Bureau, which is still a branch of the Ministry of the Interior. As compared with our past history of amateur administration and voluntary charitable effort, the United States

[1] Harmon, *A Manual of the Pension Laws of the United States of America*, Washington, 1867, "Case of Abigail McKurdly," p. 182.

[2] *Encyclopædia Americana*, 1889, vol. iv. p. 166, sub. tit. "Pension System of United States."

from the first placed their pension administration in the hands of a Commissioner, under whom there were several Boards of legal and medical reviewers, special examiners and accountants, such as we are seeking to constitute to-day. In the general machinery of pension administration the United States are, of course, years ahead of anything we have even thought about as yet, but one advantage of coming late into the field is that we have been able to broaden the basis on which pensions have been granted, and we have been the first to institute Local War Pensions Committees, democratic experiments the progress of which English citizens will do well to guard jealously and United States citizens will doubtless watch with intelligent curiosity.

In 1867 Mr. Henry C. Harmon published a valuable and well-edited treatise on American Pension Law.[1] It consists of a business collection of statutes, decisions and practice rules of the American War Pension Laws. Since that date it has, of course, been superseded by modern official volumes detailing the law and practices of pensions and reporting the official decisions. Mr. Harmon claims that the American pension system is so simple and natural that any one of ordinary intelligence can understand what is necessary in the prosecution of any just claim against the Government for pension or bounty. No man, he thought, needed the intervention of any intermediate party to obtain a pension who has common intelligence and an honest claim.

[1] Henry C. Harmon, *A Manual of the Pension Laws of the United States of America*, Washington, 1867.

The steps necessary to put forward a pension case were: The declaration of the applicant, made before a Court of Record and supported by two witnesses; the certificate of two surgeons as to the injury received or disease contracted, and the certificate of some commissioned officer having knowledge of the circumstances of the case.

At this period there had been too much laxity in filling up pension papers, and some claimants and their attorneys had by their misconduct injured the position of honest applicants, and the practice now introduced of making the claims before a Court of Record was regarded with approval. Pension agents in those days had a very ill name throughout the States, and Mr. Harmon expresses the hope that his book may assist to "put them on the road where they will have to earn some portion of their bread by honest toil, where honest men will not be insulted by their presence, nor public virtue further interfered with by their running at large."[1]

This trouble with pension claims agents has undoubtedly been a great blot on the American administration. If you have to deal with a system which is allowed to grow highly technical, and grants are refused for legal or departmental reasons not understood of the people, you are bound to encourage some class of attorney. This is indeed necessary to the poor man who wants what he believes are his rights and meets with difficulties in obtaining them. If our system of

[1] Harmon, *A Manual of the Pension Laws of the United States of America*, Washington, 1867.

Local War Pensions Committees continues and is the success it may well be, if the Central Authority encourages its growth and adds to its powers and duties, there is no reason why pension claims agents need ever arise in this country; but if we proceed in future to a highly centralized official administration, attorneys will be as necessary in pension affairs as they are in legal affairs, if justice is to be done. Although some American pension claims agents were "shysters" and fraudulent persons, many of them were honest, high-minded, patriotic men.[1] It really entirely rests with our administrators whether they can make a system, prompt, certain, simple and sympathetically worked; for if not, of necessity, agencies will arise to combat and overcome the official obstacles that stand between the applicant and his pension.

The right to a pension in the United States has from the first turned on the phrase "line of duty." Any one disabled in the line of duty by wounds or disease has a right to a pension. This state of the law is somewhat similar to our own attitude towards pensions before this War, but the words being legally defined and construed tend to make cases easier of adjudication. The pension authorities cannot, as we can, give a pension to a person whose condition has been merely "aggravated" by conditions of service. "A soldier discharged on account of a disease under which he was labouring when he enlisted is not entitled

[1] "Some Weak Places in our Pension System," S. N. Clark, *The Forum*, November 1898, vol. xxvi. p. 318.

to a pension."[1] Still there are, of course, many cases where the aggravation arose in the line of duty, and there an applicant succeeds.

"In line of duty" is a technical phrase, and is the basis of the American Pension system.[2] The words are construed by the Pension Courts on lines analogous to the decisions in our own Courts in the familiar phrase, "arising out of and in the course of their employment," which has given rise to so much legal controversy in the discussion of cases under the Workmen's Compensation Act. The American Pension Reports are full of interesting points. Thus, a man is not "in line of duty" when he has gone home to vote or while on furlough, unless it is sick furlough, or when foraging on his own account, or if his injury is due to negligence or misconduct. A man who is injured by a surgical mistake, or one who dies from eating green apples in service, is held to be "in line of duty." When the cause of death is unknown the dependants are given the benefit of the doubt.[3]

From this it will be seen that in America pensions are not dependent on the hazard of departmental action. They are not granted or withheld by this clerk or that clerk as he deems fit, but have to be brought within certain definite categories by a judicial authority. The fact that a man has certain well-

[1] Harmon, *A Manual of the Pension Laws of the United States of America*, Washington, 1867, p. 185.

[2] *Treatise on the Practice of the Pension Bureau*, 1898, p. 11.

[3] *Cases cited in Digest of Pensions and Opinions relating to Pensions*, Washington, 1897, sub-title, "Line of Duty."

defined rights, and these are ascertained in accordance with regulated procedure by trained authorities from whom there are definite rights of appeal, gives much public satisfaction and leaves no legitimate grievance in the minds of those whose claims are denied as not being within the terms of the law.

The Washington Pension Office is not only big but business-like. The building was erected in 1885 at a cost of 900,000 dollars; it covers nearly ten acres, measures 400 by 200 feet, and is 150 feet high; it has a floor area of 188,258 square feet, and is divided into 175 rooms, courts and galleries. It is said to be the largest brick building in the world, and houses a staff of 1200 officials.

That, comparatively speaking, so small a staff can deal with such a mass of detailed work is due entirely to the business organization of the office, and especially to its thorough system of indexing. A pension office that neglects indexing is bound to disappoint its clients by delay and confusion in dealing with claims and leaving inquiries unanswered.

The United States long ago did away with the possibility of delays and neglect in dealing with the affairs of applicants, and promptness and efficiency were made possible by an ingenious system of card records which is fully described in an official report.

In 1916 the American Bureau of Pensions recognized that their card records had grown to such proportions and served such important and different purposes that it was in the public interest to publish an account of them. They form a complete index to vast and varied

information, and are a model of what thought and industry can accomplish in this direction. Before our own country had attained to a Ministry of Pensions this system was not only working, but the book explaining it in detail was in existence.[1] What our system of record may be is not known, but its inefficiency has been the constant theme of complaint. There could, we should think, be little difficulty in an office manager adapting the American system to our own needs.

The system is based on a numerical arrangement by series. All claims are filed in numerical order according to serial number. The number of the claim, the name of the soldier or sailor, and the designation of his service are the three essentials by which to identify a paper that may be filed in support of a claim. There are, therefore, three card index records: Alphabetical, Numerical, and Service Records, each complete in itself as to its particular function.

The Alphabetical Record contains details of the case and is the legal record of the Bureau. Where a name only is given in a letter about a case, it supplies at once the missing dates necessary to trace the details of number and service and to find the case in the files.

The Numerical Records, which have reached 1,423,905, contain the name and service of every soldier of the several wars who has been the subject-matter of a pension claim, and details of dependants.

The Service Record consists of cards based on service,

[1] *Card Records in use in the Bureau of Pensions, 1916*, Washington, 1916.

and are the index to the man's service career; the number of every certificate issued in his service and other service details are here recorded.

All these records by means of cross-references and guides are really parts of one index, and used together enable any letter or inquiry about any case to be promptly and accurately dealt with.

There are also card records in use in Medical Divisions, indexing the various medical examinations, and another set of Records in the Law Division, and several smaller records of minor matters.

The files or dossiers of each man's papers are dealt with by a Clearance Section, and an elaborate system is maintained by which at any moment the particular department where the man's papers may be at the time is registered; furthermore, on each file there is a record on the outside of every step taken in the case. These files, of which there are now over 2,000,000, are kept in numbers of 40–80 in steel file boxes, which are very easily handled and keep the papers clean and tidy. In the Annual Report of his work the Commissioner of Pensions takes pride in telling the general public these domestic details of his office management.[1] The distress and misery caused by loss of papers and consequent delays to applicants, who are daily awaiting the results of claims, make a system of this kind absolutely essential to proper pension administration. When we read how cleverly all these difficulties have been thought out and mastered in Washington, we do

[1] *Report of the Commissioner of Pensions to the Secretary of the Interior*, Washington, 1915, p. 7.

not despair that some day we shall be able to put our own house in order.

For many years the work of the Bureau has been assigned to different departments, each dealing with a special branch of the business. A claim sent in goes quickly and automatically to its appropriate branch. It is received by the Mail Division and classified by the Law Division—for there are different laws relating to different wars—then it goes to the Record Division, where it is recorded, numbered, jacketed and forwarded to the Adjudicating Division. The man is at once told his official number, which is the keynote to his papers, and the Record Division enters his case on the card indexes. Arrived in the Adjudicating Division of Army or Navy, as the case may be, the preparation of the medical and other evidence necessary to support the claim proceeds, and as soon as that is ready the case with all the affidavits and depositions goes on to the Board of Review, which is charged with the determination of the merits of the application. Two expert reviewers consider each case, acting separately in the first instance; and if they do not agree, the Chief of the Board is called in. From him there is an appeal to the Commissioner, and from him there is a final appeal to the Minister of the Interior. When the matter is judicially determined in the applicant's favour he receives a certificate of title setting forth the rate at which he is to be paid.[1]

The declaration of a claimant is made on oath and before a Court of Record; witnesses are compellable

[1] *United States Pension Souvenir*, 1915.

to give evidence, and a subpœna can be issued at the request of the heads of any of the departments. A witness is allowed his expenses. The attorney or agent who prepares the case for the claimant is allowed his expenses, which are now fixed on a strictly limited scale. Ultimately, a file is made of all the Army or Navy papers necessary to the case which are demanded by and supplied to the Pensions Bureau; to these are added the affidavits or depositions of the man and his witnesses, and certificates of doctors. It is upon this collection of evidence that the case goes for trial.

In the case of an appeal from the Bureau to the Secretary of the Interior, the appellant makes a special assignment of the alleged mistake, or error of law, or fact in the adjudication of his claim, but does not file new evidence.

It will be seen that the system, though definite, is narrower than ours, and the procedure, though eminently businesslike, lacks that element of human sympathy that we hope to supply through our Local War Pensions Committees. There is no doubt that in matters of administration Westminster can learn much from Washington, for in pension matters sympathy without business is like the Good Samaritan without the oil or the two pence.

APPENDIX

I.

Sections 10 and 11 of 7 Geo. IV. c. 16: An Act to Consolidate and Amend several Acts Relating to the Royal Hospitals for Soldiers at Chelsea and Kilmainham.

Soldiers entitled to Pension to have the Benefit of the Regulations and Orders in force at the Time of their Enlistment, except in certain Cases.

X. And be it further enacted, That every Soldier who shall from and after the passing of this Act become entitled to his Discharge by reason of the Expiration of any Period of Service fixed in any Orders and Regulations made by His Majesty in that Behalf, or shall have been discharged by reason of being an Invalid, or disabled, or having been wounded, shall thereupon be entitled (except in the Cases hereinafter mentioned of Admission into either of the said Hospitals at *Chelsea* or *Kilmainham*, or Expulsion therefrom) to receive such Pension, Allowance, or Relief, as shall have been fixed in any Orders or Regulations by His Majesty, in relation to such Cases respectively, and in force at the Time of his Enlistment, and for the Payment whereof Money shall have been voted

by Parliament; and every such Soldier shall receive the same under the Provisions of this Act, or any Rules or Regulations made in pursuance thereof, by the said Commissioners of the said Hospital at *Chelsea*, as aforesaid.

Regulations to be annually laid before Parliament.

XI. Provided always, and be it further enacted, That all Orders and Regulations from Time to Time made by His Majesty, in relation to the Discharge of Soldiers after the Expiration of any Periods of Service, and also in relation to any Pension, Allowance, or Relief, to any discharged or invalid, disabled, or wounded Soldiers, shall annually be laid before Parliament; and that Estimates of the Amount of all such Pensions, Allowances, and Relief, and of all contingent Expences and Charges relating to the Payment, Controul, and Management thereof, shall also be annually laid before Parliament.

II.

Sections 2, 3 and 4 of 6 & 7 Geo. V. c. 65: The Ministry of Pensions Act, 1916.

Duties and powers of Minister of Pensions.

II. (1) There shall be transferred to the Minister of Pensions—

(*a*) The powers and duties of the Admiralty with respect to pensions and grants to persons who have served as officers or men, and to

their widows, children, and other dependants, and to persons who have been employed in the nursing service of any of His Majesty's naval forces, other than service pensions, so far as such pensions and grants are payable out of moneys provided by Parliament, and not provided exclusively for the purpose of Greenwich Hospital;

(*b*) the powers and duties of the Commissioners of the Royal Hospital for Soldiers at Chelsea with respect to the grant and administration of disability pensions and grants, other than in-pensions;

(*c*) the powers and duties of the Army Council and the Secretary of State for the War Department with respect to pensions and grants to persons who have served as officers or soldiers, and to their widows, children, and other dependants, and to persons who have been employed in the nursing service of any of His Majesty's military forces, other than service pensions;

and His Majesty may by Order in Council make such adaptations in the enactments relating to such powers and duties as aforesaid as may be necessary to make exerciseable by the Minister and his officers the powers and duties of the several authorities above mentioned and their officers, and may fix the time or times as from which the several powers and duties are to be transferred to the Minister.

(2) The Minister of Pensions shall in each year prepare and lay before Parliament a report of the proceedings of the Ministry.

Relations with Statutory Committee (5 & 6 Geo. V. c. 83).

III. The powers and duties of the Statutory Committee under the Naval and Military War Pensions, etc. Act, 1915, shall be exercised and performed by that Committee under the control of, and in accordance with, the instructions of the Minister of Pensions, and the Statutory Committee shall render to the Minister of Pensions advice and assistance in respect of any matter on which such advice and assistance is requested by the Minister.

Functions of Local Committees.

IV. The local committees constituted under the Naval and Military War Pensions, etc. Act, 1915, shall, at the instance of the Minister of Pensions, exercise, with respect to pensions and grants administered by that Minister, all such functions as to inquiring, reporting, collecting, and furnishing information, making recommendations and distributing grants as by the said Act are exerciseable by those committees at the instance of the Statutory Committee.

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